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Chapter Twelve: Understanding All Orders And Other Words From The Texts As General, And The Falsehood Of The People Who Make *Tawaqquf* In Any Of These Or Claim It Is Specific, Except What A Text Changes The General Understanding To Specific Understanding.

The people have differed in this chapter.

A group said, "No words from the texts are understood except as khuṣūṣ (specific), and the meaning of that is to understand all words from the text only upon some of the meanings which is necessitated by them in the language, not upon all meanings a word necessitates in the language."

Some of them said, "We instead make tawaqquf, so we do not understand them as general but also not as specific except with an evidence (for one of the two)."

The first position is the view of some of the Hanafiyyah and some of the Mālikiyyah and some of the Shāfi iyyah and the second position is also the view of some of the Hanafiyyah, some Mālikiyyah and some Shāfi iyyah.

Another group said, "It is obligatory to understand all words from text as general, and that is to use all meanings for that word arranged in the language used for expressing meanings which belong to a word."

Then they differed, another group among them said, "This is only done after looking into whether that word is specified by something or not. If an evidence is found then we turn towards it, otherwise we understand the word as general, without looking for evidences for it being general." This is the view of some of the Shāfi iyyah and some of the Ḥanafiyyah.

Another group (among them) said, "What is obligatory is to understand all words as general, and using all definitions of a word in the language, without tawaqquf. But if we find an evidence that takes it out from the general understanding, towards what only some of the meanings of a word and we turn towards that." This is the view of all *Ahl ul-Zāhir*, and some of the Mālikiyyah and some of the Shāfi iyyah and some of the Ḥanafiyyah. And this is the position we take, this is the position no one is allowed to oppose.

And indeed, those we mentioned differ, as we have presented from their statements in previous discussions. If a statement aligns with their method if it is $khus\bar{u}s$, they take it; if the general aligns with them, they take that instead. So their $us\bar{u}l$ principles are inverted relative to their $fur\bar{u}$, and their evidences are arranged according to what their positions on the issues are (invalidating their $us\bar{u}l$ as they only care about saving the positions of their $im\bar{u}m$ with whatever is possible).

It is astonishing to claim that evidence for a statement must be sought only after believing in it. The only purpose of evidence is to guide us to what must be believed in the first place. Then how can someone find guidance if they believe a statement without evidence, and then attempt seeking evidence only if it supports their belief and is otherwise rejected?

Everything we have mentioned that applies to those who make tawaqquf or $ta'w\bar{\imath}l$ in diverting orders from obligation and in diverting words from their apparent meanings is more applicable to those who advocate tawaqquf or specificity $(khu\bar{\imath}u\bar{\imath})$ here. And there are additional matters against them.

And those that went with the position that words are not understood as general except after seeking evidence for (possible) specification, or those that require additional evidence for it to be understood as general, they use as evidence by saying, "If the words would (alone) would imply generality ('umūm) by its (mere) sīghah, then it would not have been found anywhere in any case except in that manner. Just as the word black never applies to white. So since we find that some words which the apparent of is generality, while the intended meaning of it is specific, we know that no words are understood (initially) as general except with if there is an evidence for that."

We have previously clarified the corruptness of using such sayings as *istidlāl* when we clarified obligations and the apparent. We say to them: The fact that we (may) find words diverted ($manq\bar{u}lah$) from their original places ($mawd\bar{u}$) in the language does not necessitate the invalidation of all words and corrupt the placement of the words ($asm\bar{a}$) on their [entity, thing]

which has been named (musammā). If that would be the case then the fact that we find verses that are abrogated which is not allowed to act upon, because of that abandon acting upon every single verse, except if there is an evidence that shows acting upon it from additional other evidences. And whoever says this is an infidel by $ijm\bar{a}$. And whoever among this group that does not say this contradicts his method and indicates the corruptness of it.

As for their saying, "Just as the word black never applies to white," the color black has been placed in the language in matters other than color, it can be said, "So-and-so is more black (aswadu) than so-and-so," in the sense of leadership (siyādah), and this does not negate that black as a meaning is designated (original meaning) for the absence of colors. Also, one might refer to a black person as "The father of the white one (Abū al-Bayda')," and this does not negate that white as a meaning is designated (original meaning) for the color that differentiates vision.

Some of those who argued for the validity of taking the 'umūm in the past have used this against them, they said, "There is no way for the existence of a word which is general while the meaning of it is specific any way, except with an evidence that clarifies that that word is diverted from its arranged place to another place, such as the evidence for the takhṣīṣ of the verse, 'Destroying everything by the order of its Lord' [Al-Ahaāf: 25] so it is established by the text and the apparent, and what the word necessitates that nothing is destroyed among the things except what is ordered to be destroyed. This is a word specific to some things, it is not a general word. But a word that is general for what is intended with it. Likewise, every general word intended for specificity is the same. So since this is established, what those that use as evidence that they find words to be general from the apparent while specification is intended with it is false."

And they argued against those that said this, "We have never found a speech except that it is specific, not general. So it is established that every speech is intended only for those to whom the speech has reached, among the rational and mature individuals, specifically excluding others."

This is the tumult of an ignorant person speaking without knowledge. I wonder, where are they with their false claim regarding the verse, "And He is knowledgeable of all things" [Al-Baqarah: 29]. And also, regarding their claim that the address is directed to the rational and mature (adult) knowledgeable individuals, excluding others, that is only because of a text specific to them. So it is general for them all. We do not mean with our saying of 'umūm everything that exists in the world, we only mean with it all that a word means, its manifestations, based on this we say general. And we only mean understanding all words on everything the word necessitates, if nothing is necessitated except two from a type, then that is general for them (while it is more specific when compared to what is more general). We only reject making takhṣīṣ of what a word all necessitate without evidence, or tawaqquf without evidence.

Such as the verse, "And do not kill the soul which Allāh has forbidden" [Al-Isrā': 33].

So we say: This is general for all souls which Allāh made prohibited among mankind, both *dhimmī* or Muslim, there has not come that which necessitates killing them. And if someone kills an animal which is prohibited to be killed because it is owned by someone which is because of another reason.

Another example is the verse, "And do not marry those [women] whom your fathers married except what has already passed" [An-Nisā': 22].

We only reject allowing (the private parts) of someone without evidence and marriage whom the fathers married. Whoever opposes us, it is necessary on him to not ever carry out the prohibition of killing any soul except with an additional evidence and to not prohibit what the fathers marry except with an additional evidence other than this verse which clarified its generality. Their method is a path to *waswās* and towards the nullification of all understanding and the invalidation of all languages and the invalidation of the religion.

Another example is that the Prophet $\stackrel{\text{def}}{=}$ said, "(The transaction of) barley for barley is $rib\bar{a}$ except if its giving and taking. Wheat for wheat is $rib\bar{a}$ except if it is giving and taking. Dates for dates is $rib\bar{a}$ except if it is giving and taking. Salt for salt is $rib\bar{a}$ except if it is giving and taking. Gold for gold is $rib\bar{a}$ except if it is giving and taking. Silver for silver is $rib\bar{a}$ except if it is giving and taking."

So it is obligatory to understand that this applies to all barley, all wheat, all dates (and its various types), all salt, all gold and all silver.

Another example is the saying of the Prophet *, "Every intoxicant is prohibited," so it is obligatory to understand that for every single intoxicant.

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¹ Sahīh al-Bukhārī 2174

Whoever transgresses this has invalidated the ruling of the language and the ruling of the religion.

They weakly use as evidence some verses that have threats, such as the verse, "Indeed the wicked will be in the blazing fire" [Al-Infiţār: 14].

And the verse, "And whoever does not rule with what Allāh has revealed, they are the disbelievers" [Al-Mā'idah: 44].

They say, "These are not understood as general (not all of them are *kuffār* nor are all in the blazing fire)."

And if it were not for the texts that have come regarding the acceptance of *tawbah*, balancing, and the forgiveness of sins by avoiding major sins, it would be necessary to understand the verses of threat according to their apparent and general meaning. But we have moved to the clarification from another address. And similarly is the statement in the other verse and in every verse, address, narration, and statement.

We do not deny specifying the general with the evidence of another text or out of necessity. Rather, we deny specifying it without evidence.

They also asked us, saying, "Do you believe in the general meaning upon first hearing the verse and the narration before understanding them?"

The answer: We believe in the general meaning and there is no other way. Otherwise, upon first hearing and before understanding, we are not jurists, judges, or warners to understand. Till we understand, and when we understand we then take every word according to its apparent and general meaning, judge by it, give *fatwas*, and practice religion by it, unless there is evidence that it is not according to its apparent and general meaning. In such a case, we adhere to it. If a specification has not reached a judge or a *muftī* from what reached him from what is general, it is obligatory for them to judge and give *fatwas* based on the general that has reached them. Otherwise, they are sinful (*fāsiq*) until the specific reaches them, and they adhere to it.

Then we reverse this question on them and say: What do you believe about the verse and narration when you hear them before understanding? Do you believe in the invalidation of obedience to them, that they are abrogated, or do you believe in the obligation of obedience to them and that they are applied and judged unless there is evidence of their abrogation? If they say, "We believe they are abrogated and we must made *tawaqquf*," they have deviated from the statement of all Muslims, leading to the invalidation of all rulings and departure from Islām. For the evidence sought for invalidation of

abrogation is only another additional verse, text, or $ijm\bar{a}$. Their positions imply that they must make tawaqquf on the additional verse and the additional narration (which is in the first place used to make $takhs\bar{i}s$ or naskh) or to say that they are abrogated, just as in the first address, with no difference. And so on forever without an end. And their position also implies to make tawaqquf on their claim of $ijm\bar{a}$, perhaps there is a difference here, so the religion is invalidated based on their method. And it implies that no one acts upon anything from the religion as perhaps this here got specified or is abrogated. And this is contradicting the religion of Islām. We seek refuge in Allāh. And we disassociate ourselves before Allāh from every statement that leads to this.

And if they say, "Rather they are *muḥkam* (and are general) until evidence indicates that they are abrogated," they have returned to the truth. And this is necessary against them in the same manner for their sayings regarding *tawaqquf* and *takhṣīṣ* (just as they only believe in abrogation only after evidence is established they must do the same for *khuṣūṣ* and *tawaqquf*, only if there is evidence and take it generally if there is no evidence).

They also said, "We, in the addressments (texts), are like a judge to whom two witnesses testify. He must inquire about them (in this case the texs) and make *tawaqquf* until their reliability is confirmed (this is a *qiyās* of judgments to taking rulings from texts)."

And this is a false *qiyās* because if the two witnesses are confirmed by us before their testimony that they are just, they remain on that justice, and it is not permissible to hesitate about their testimony. The obligation is to execute the judgment immediately when they testify. Similarly, what we are certain of is the speech of Allāh Almighty or the speech of His Messenger, to us, we do not hesitate.

We only make tawaqquf with the two witnesses if we do not know them, and similarly, we make tawaqquf with the narrations if it is not confirmed to us that it is from the Prophet $\stackrel{\text{\tiny{de}}}{=}$. We do not judge anything based on that (and none of this is because of a $qiy\bar{q}s$ between each other).

They say, "We know that the wind did not destroy everything in the world, and that Balqīs was not given everything because Sulaymān was given what she was not given."

They also use the verse, "Destroying everything" [Al-Aḥqāf: 25].

And the verse, "It left nothing that it reached, except that it made it like disintegrated ruins" [Adh-Dhāriyāt: 42].

And the verse, "She has been given all things" [An-Naml: 23].

And all of this is not a *ḥujjah* for them. As for the verse, "Destroying everything" [Al-Aḥqāf: 25]. We have said that Allāh Almighty did not say that and remain silent (the *jumlah* does not end there), but He said, "Destroying everything by the order of its Lord" [Al-Aḥqāf: 25].

So it is established by the texts that these words are general, because Allāh only said that it destroys everything in general which is ordered by Allāh to be destroyed, so their *iḥtijāj* is invalid and false.

As for the verse, "It left nothing that it reached, except that it made it like disintegrated ruins" [Adh-Dhāriyāt: 42]. This verse invalidates their saying, because Allāh only said that it destroyed everything that it reached, not everything that it did not reach, so their *tamwīh* is invalid and false.

As for the verse, "She has been given all things" [An-Naml: 23].

Allāh only told us the words of the hoopoe, and we do not use the words of the hoopoe as evidence. Rather, we only use as evidence what Allāh the Almighty has informed us about from His knowledge or what Allāh the Almighty has confirmed of the narrations from those whose narrations has been conveyed to us. Allāh the Almighty has conveyed to us many statements from the Jews and Christians that are from them not accurate.

If someone says, "But Solomon, said to the hoopoe, 'We will see whether you have told the truth or are one of the liars" [An-Naml: 27].

We say yes, but Allāh the Almighty did not inform us that the hoopoe was truthful in everything it mentioned. So, they have no evidence in this verse at all. Then we say to them, with Allāh the Almighty's help, if you use these verses as evidence to understand the Qur'ān and the speech of the Prophet as specific and not general, then accept that which this method all implies. We recite to you the statement of Allāh the Almighty, "And we made for them hearing and vision and hearts. But their hearing and vision and hearts availed them nothing as they the $\bar{a}y\bar{a}t$ of Allāh" [Al-Aḥqāf: 26].

So tell us, regarding Allāh the Almighty's statement in this verse, that their hearing, vision, and hearts did not avail them of anything, is it general or do you say it availed them of something? If you say so, you have lied about your Lord, and if you do not say so, you have abandoned your false method.

Verily, there is much of such examples in the Qur'ān (that invalidate their method in this manner), instead there does not exist in the Qur'ān other

than this, except in a few places where the evidence of specificity has been established.

And if it were not for the evidence of specificity, it is not permissible for anyone to understand it except as general. And with Allāh the Almighty is success.

They also obscured with what is against them, not an evidence for them, which is the hesitation of the Israelites in the matter of Allāh's order to them to slaughter the cow. Whoever's extent of knowledge is this, it is prohibited for them to speak about the religion of Allāh. Allāh the Almighty condemned them severely for that hesitation. Can it be permissible for a Muslim to attempt strengthening his method by that which goes exactly according to that which Allāh condemned?

If there would be no hesitation of them except their saying to Musa, "Do you make fun of us?" [Al-Baqarah: 67] as an answer to that which Musa said to them, "Verily, Allāh orders you to slaughter a cow" [Al-Baqarah: 67]. Then whoever is addressed by the Prophet with an order and the one that is addressed with that order ridicules, has indeed apostated.

They also use as evidence the verse, "And He created everything" [Al-An'ām: 101]. They say, "He is not created."

And they use as evidence the verse, "Those to whom the people said, 'Indeed, the people have gathered against you, so fear them." [Āl 'Imrān: 173].

They say, "And it was only some people who said this to them; the ones who gathered against them were only some people, not all of mankind."

We do not deny that there can be an evidence that take out some words from their original places in the language, we instead permit this, and for those two verses certain necessary evidence is established that the meaning of Allāh having created everything is that it is everything other than him in general, this is that which is understood from the verse, because since the Exalted One is the one who created everything, and that it is impossible for someone to create himself due to the necessities of certain evidences which we have solidified in al-Faṣl, it is established that the word never came at all-encompassing Allāh in that which is his creation. And similarly since those who informed that the people gathered against them as in the verse, are a people other than the people that gathered against them and since the people that gathered are a people other than the people that informed it and since the

two groups are not the gathered for it, we then know that with the words mentioned nothing is meant except what is established in the 'aql. And we only reject a mere claim of moving words away from its $mafh\bar{u}m$ without evidence. And similarly, we do not reject the abrogation of an order with evidence that is established it at all, we only reject claims of abrogation without evidence.

And they also claimed, "If the 'um $\bar{u}m$ had a specific form that necessitates it, and had a word that has its place for it, there would not be any meaning to $ta'k\bar{\iota}d$, because it would be sufficient to have that word alone indicate the general."

This is them teaching their Lord things they have invented; we do not know what their assumption in this regard is: Is it forgetfulness, oversight, or intentional? All of this is *kufr*. This is their habit of ruling by *qiyās* in things they claim their Lord, the Exalted, did not mention or rule on. We declare our innocence before Allāh from this and say that we have no knowledge except what He has taught us and that emphasis (*ta'kīd*) in the Arabic language is frequently present, like when Allāh repeated verses such as, "Then which of the favors of your Lord will you deny?" [Ar-Raḥmān: 13] repeated thirty-one times, "And Allāh does what He wills" [Ibrāhīm: 27] and "He is not questioned about what He does, but they will be questioned" [Al-Anbiyā': 23].

This has the greatest benefit because He, the Exalted, knew that there would be among His creation people like them seeking to invalidate truths, so He refuted their claims as He wished by emphasizing (with $ta'k\bar{t}d$) to establish proof against them and left out emphasis where He wished, all only according to His will. To lead them astray therein, and those who make $taql\bar{t}d$ and are stubborn deserve a painful punishment. Those who obey and submit will be rewarded with abundant rewards by His grace and generosity. There is no god but Him. Even if He had not repeated the stories of past nations and His orders to establish prayer and give $zak\bar{a}h$, in many places and his order to have $\bar{t}m\bar{a}n$ and to avoid kufr in many chapters and the mention of paradise and the fire in many chapters, none of that invalidates the obligation if it would have been repeated and it remains obligatory even if it was mentioned once. And would remain the exact same obligation even if he mentioned it a million times without any difference. And doubt in any text that is mentioned

only once implies *kufr* just as the occurrence of *kufr* on the one that doubts that which is repeated a thousand times without any difference.

And verily Allāh has mentioned the story of Mūsā in many places in the Qur'ān and he did not mention the story of Yūsuf except once, there is no difference between the *Ummah* that there is no difference between the validity of the story of Yūsuf and the validity of the story of Mūsā, whoever doubts that is a *kāfir mushrik*. So *ta'kīd* is like repetition without difference, and if Allāh had not emphasized what He emphasized (if he did not make *ta'kīd*), it would have been obligatory and general without being necessitated by its (repeated) word, just like its obligation with emphasis; there is no difference. And the meaning of emphasis (*ta'kīd*) is like the meaning of the statement of someone saying, "I witnessed so-and-so and looked at him with my two eyes. And he does so-and-so," we know that looking does not happen except with the two eyes. And if someone says, "I heard with my ears," while hearing cannot occur except with the ears, if he would remain silent on that part we would know his news, just as if he mentioned the eyes and ears without difference.

And also $istithn\bar{a}$ ' is possible after a ta' $k\bar{\iota}d$ just as it is possible with something that has no ta' $k\bar{\iota}d$, we can say, "I saw a people all of them, gathered from the first to the last of them spreading the faults and none of them cared in any possible manner except so-and-so." If ta' $k\bar{\iota}d$ would be an exit from (making) $khus\bar{\iota}s$ of the ' $um\bar{\iota}m$ ' then it would not have been possible to have any $istithn\bar{a}$ ' in it, so it is established that ta' $k\bar{\iota}d$ is at the same place as $takr\bar{\iota}a$ ' without any difference.

Then we reverse their false question and say to them: If it would be possible for the general form to be specific, it would not be possible for $ta'k\bar{\iota}d$ to transfer it to generality. This is necessary for them because they validated this question. Therefore, whoever validates the premise is implied this necessity, which is not implied on those who do not.

If their claim would be valid, then everything that changes from its state would be false, and that change would serve as evidence that the state changed towards was not the truth. Because they are implied that if something would be truth, that it cannot become ever invalid, and there would be no evidence be established on its invalidity. We observe that human life exists through the connection of the soul to the body. Then that life goes and is invalidated by certainty so they are implied when they say, "If the general

would be the truth/real its words would not move to the specific," that they must say, "If life would be truth/real the one having it must not be able to move to death." This is while their "evidence" itself lacks evidence and is a mere invalid claim because their claim is that the moving of something from its arranged place invalidates it being arranged for that, this is a false claim that resembles the questions of the sophists and the jews, we have invalidated their *istidlāl* about that in al-Faṣl and all praise is for Allāh.

They also say, "If 'um $\bar{u}m$ would be real/truth then $istithn\bar{a}$ ' from it would not be good nor diverting it to $khus\bar{u}s$."

And this is the utmost deceit because generality is the form of the word that encompasses multiple things attached to that word. So when the exception comes, that word with the exception together becomes a form of specificity, and this is exactly our statement. So the occurrence of the exception is an expression that indicates specificity, and the absence of the exception is an expression that indicates generality.

Then this question itself is reversed against them, and it is said to them: if specificity $(khu\bar{s}\bar{u}\bar{s})$ had a form, then the exception $(istithn\bar{a}')$ would have no meaning because it would not provide any benefit more than what is understood from the word before the occurrence of the exception. And we have already stated that the proposition is necessary for the one who validates it and questions by it, but as for us, all these questions are invalid. However, they are necessary for them if they initiate the questioning by them.

And they also said, "If a word implied generality, then it would not be good to question whether he intended specificity or generality. So, when it is good to question, we know that it does not imply generality by its explicit mere wording."

This is similar to the first claim. Such questioning is only appropriate for someone ignorant of the boundaries of speech. However, questioning about a verse or a <code>hadīth</code> is blameworthy. The Messenger of Allāh **rejected this and said: "Leave me as I have left you."

Then we turn this question back on them and say: If the words inherently conveyed specificity, then the question would have no meaning.

They say: "Don't you see that questioning and inquiring is not valid when it concerns a single thing, as its meaning is already understood from the explicit wording itself?" This is incorrect because questioning is valid for a single thing just as it is for generality. For example, someone might say: "Zayd came to me today," and the listener might respond: "Did Zayd himself come to you?" either as a form of admiration, joy, or for some other evident reason. This is a known matter that no one with 'aql denies.

And also the *Sharī* 'ah has permitted such questioning when it comes from someone seeking relief or ease. An example is when Ibn Umm Maktūm asked for an excuse from the general wording of the verse revealed regarding the *ighārah*, requesting that an exception be made for him². While it would have sufficed for him to consider other verses, such as: "There is no blame on the weak or the sick" [At-Tawbah: 91], and similar cases. Another example is al-'Abbās's question about the grass, which was then excluded from the general prohibition of cutting grass in the sanctuary of Mecca³.

In another case, questioning is also appropriate/valid for amounts, like someone saying, "Ten people came to me for such and such matter," and the listener asks, "Ten?" and the response is "Yes." This is similar to Allāh Almighty's statement, "He must fast three days during the *ḥajj* and seven when you have returned. These are ten complete (days)" [Al-Baqarah: 196]. We would have known it, even if Allāh had not mentioned the "These are ten complete days," that three and seven make ten. And we would have known from His saying, "Ten (days)." That they are ten days, but Allāh said, "Ten complete (days)," as He wills.

Since all of this has been established, as we mentioned, and inquiry about a single name (entity) and the number is valid and that cannot divert it from its proper meaning, it does not allow applying the name of one to more than one, nor does it permit applying the concept of numbers differently. Likewise, the occurrence of inquiry in on something general does not necessitate abandoning understanding it as general. And with Allāh lies success.

They also said, "How do you end up with your view, do you know its validity with the general (something else that is also general) or do you know its validity something that is not general?"

This is part of the nonsense that we have previously refuted in our discussion on the evidences of the 'aql, and it is absurdity brought by some

² Sahīh al-Bukhārī 4592

³ Sunan Abī Dāwūd 2017

sophists intending to invalidate truths. This argument turns against them in their position about the khuṣūṣ and their position about tawaqquf. It can be said to them: How do you know your position about tawaqquf? Do you know its validity because of another thing on which you make tawaqquf on or with something which you do not make tawaqquf on. And how do you know your position on khusūs, with khusūs or through that which is not khusūs?

And the correct response, clarifying their ignorance, is that we say, with the help of Allah the Exalted, that we affirm the concept of 'umum (generality) based on the inference (istidlal) drawn from the necessity of the 'aql, which determines that language is organized to clearly designate every meaning in the world, facilitating mutual understanding between the speaker and the listener. We observe that general categories (ajnās, plural of jins) encompass numerous types (anwā', plural of naw'), and general types encompass numerous individuals (ashkhāṣ, plural of shakhṣ). These are conveyed through statements, and rulings are applied through them by necessity. So it is essential that there must exists a term that conveys information about the entirety of a jins, as this is indispensable; without it, the conveyance of information about categories would be invalidated, which is inconceivable. Likewise, it is necessary to have a term that conveys information about specific parts within a jins to enable the addressee to comprehend the intended meaning. Denying this is equivalent to rejecting what is self-evident and denying established necessities.

They also asked and said, "If your statement about generality and the apparent meaning is true, what do you say about someone who hears the verse about cutting off the hand of the thief, the verse about flogging the adulterers, and the verse about the taḥrīm of our wet nurses and those who are nursed with us, but does not hear the narrations specifying all that nor the verse specifying the female slaves? Do you order him to cut off the hand of one who stole gold, of which the amount is one fals, to flog the female and male slave one hundred times if they commit adultery, and to make tahrim of the one who nursed twice? Do you say that he is ordered by Allah with this, obliging you to say that he is ordered with what was not ordered (in reality) and to say that he is ordered with falsehood? Or do you command him not to implement any of that until he seeks evidence, and abandons because of that the 'umūm?"

We say, with Allāh's guidance, that Allāh never ordered to cut off the hand of a thief for less than a quarter $d\bar{n}a\bar{r}$ of gold, nor did He ever make $tahr\bar{t}m$ one who nursed less than five times, nor did He ever order to flog the male or female slave more than fifty times because the Prophet clarified all that. His words, and the words of his Lord are the same in the aspect that all of it is revelation and all of it obliges obedience. The verses they mentioned and the clarifying narrations are all linked (combined) together, none of them separated from the others; rather, they are all like one verse or one word. It is not permissible for anyone to take one part of the revealed text without the other. These texts (Qur'ān and Sunnah), though separated in recitation, are not separated in ruling, the recitation is other then the ruling. The Prophet clarified this along with the verses together, and there is no difference between the saying of Allāh, "As for the male thief, and the female thief, amputate their hands" [Al-Mā'idah: 38]. With the narration of the Prophet m, "There is no amputation below one fourth of a $d\bar{n}a\bar{n}$ (gold)."

And between the verse, "He remained among them a thousand years minus fifty" [Al-'Ankabūt: 14].

And likewise, there is no difference between His saying, the Exalted, "(And prohibited are for you) your mothers who breastfed you" [An-Nisā': 23] and the revelation of five breastfeeding sessions making it prohibited, abrogating ten breastfeeding sessions, and the saying of the person, "There is no god but Allāh." It is not permissible to separate any part of that in the ruling from its clarification, just as it is not permissible for anyone to take the statement, "There is no god but Allāh" partially and judge the speaker because of his saying including, "There is no god" and then as disbelief.

Instead, we combine all his words together and take his complete statement. Likewise, when a *mujmal* verse is revealed, an explanatory narration (or verse) follow it, and all of that is combined together, some parts made exceptions from each other, some parts conjoined with others, invalidating what they tried to obscure and so it is established that it is a corrupt question.

Those addressed with the mentioned verses are also addressed with the clarification of it together. As for us, all humans from us, it does not cease to be from one of two, either he does not have *tafuqquh* in the religion, or they do have *tafaqquh* in the religion, there is no third option. The one that does not have *tafaqquh* in the religion, then he is not among those Allāh

addressed, "The male thief and the female thief, amputate their hands." And is not among those addressed to carry out *fatwā* and judgments/rulings and giving the ruling on the *taḥrīm* of breastfeeding, nor among those ordered to flog the adulterers. Instead, all of that is ordered by the *fuqahā* and judges who are knowledgeable in language and jurisprudence, without any disagreement among Muslims on this matter.

Allāh, the Exalted, clarified that by saying, "Why did not a tā 'ifah (one person atleast or more) from every group go forth to obtain tafaqquh (knowledge) in the religion and warn their people when they return to them that they might be cautious" [At-Tawbah: 122]. So it is established by this text that not everyone is ordered with tafaqquh in matters other than that which he must know (the matters he is occupied with). This does not mean that ijtihād is not obligatory on everyone because ijtihād is only seeking the ruling of Allāh and everyone is ordered this even the most ignorant person to exist, and his ijtihād is merely ask ahl ul-dhikr, who are those that attained tafagguh that warn the people as mentioned in this narration. And it is not allowed to give rulings except by the fuqahā' (those that know Qur'ān, the weak narrations from the authentic, uṣūl ul-fiqh entirely and the Arabic language), because ruling by what Allāh revealed is obligatory and a jāhil of all these 'ulūm does it there is no certainty that he will rule by what Allāh revealed so it is not allowed to let him do that, he is not allowed to speak about the religion of Allāh except if he knows all verses and all narrations on the issue and their authenticity and weakness and has knowledge about uşūl ul-figh entirely, then it is allowed for that issue alone, otherwise he is not allowed to speak about that issue nor others, otherwise he speaks what he has no knowledge of exactly what Allah had prohibited.

So it is established from what we mentioned that those that are ordered to carry out $ahk\bar{a}m$ and $futy\bar{a}$ in the religion are the $fuqah\bar{a}$ 'who have knowledge of all texts, the entire Qur'ān and all authentic narrations from the Prophet , with knowledge, and it is also better but not a condition for them to know $ijm\bar{a}$ ' $\bar{a}t$ among the people and the $ikhtil\bar{a}f$ among the people. Anyone that is not of this attribute is not ordered to amputate the one that stole a mountain of gold and also not to give $fatw\bar{a}$ of $tahr\bar{t}m$ of the one that breastfed one thousand times or any $fatw\bar{a}$. And also not to lash the free person or slave. And every mutafaqqih before he completes learning the $nus\bar{u}s$ and $us\bar{u}l$ is not ordered that, and he is also not addressed with ruling in anything and also not

fatwā in anything, he is only ordered to seek and learn ($ta'l\bar{t}m$). If he has fiqh (complete knowledge in the manner described) then he is obliged to carry out what he heard from the general upon its apparent, as long as there is no text with an abrogation of it, $takh\bar{s}\bar{t}\bar{s}$, or $ta'w\bar{t}l$, so their question is from the apparent invalidated, and all praise is for Allāh.

But we say if such a person hears these verses and he does not hear what specifies them then his ruling is to act upon what reached him only till the $takh s\bar{t} s$ reaches him, then he is obliged just as what we said regarding the $mans\bar{u}kh$ in the same way.

There is not after the Prophet anyone who encompasses all knowledge, everyone is only obliged what reached them. And 'Uthmān had stoned the one that gave birth for six months⁴.

And 'Umar had ordered the stoning of the insane from whom the pen is uplifted one till 'Alī prohibited him from doing that⁵.

And he told him that the Prophet stold him that the pen is uplifted from the insane.

They have contradicted in these verses without evidence, so they understood some of it upon ' $um\bar{u}m$ ' and some of it upon $khu\bar{s}u\bar{s}$, so they left their views regarding waqf and they understood it upon ' $um\bar{u}m$ ' from that which is established that it is $khu\bar{s}u\bar{s}$.

They also objected by saying, "Since the $ma'h\bar{u}d$ is that the people say, 'Banū Tamīm came to me, and the people got corrupted, there is no good in anyone, the behaviors and fulfillment have gone," while that would not be a lie, we are then certain that he did not mean every single one from Banū Tamīm and also not all mankind, and also not all that is good and also not all behavior and also not every single fulfillment, all of it is established to be $khus\bar{u}s$.

Those people do not know whom they are talking to. We do not reject that in the Arabic language there are words/phrases/sentences for which evidence is established that they are specific. Everything they (specifically) mentioned, evidence is established that they are not upon their general meaning. Just as there is evidence established that there are many verses that are abrogated and that it is not allowed to act upon them, since that does not necessitate placing that abrogation because of its reason to other verses, it

⁴ Muwattā Mālik 11, 2/825

⁵ Sunan Abī Dāwūd 4401

also does not necessitate to move *takhṣīṣ* to every single word (from texts) because of the reason that we know that there are many words for which specifically evidence is established that they are specific.

However, the people impose upon us that if we find a word that has been transferred from its original meaning in the language, that we must rule accordingly for every word. This results in the invalidation of the entire language and the invalidation of understanding, and it necessitates judgment without evidence.

The evidence that is established for the *takhṣīṣ* which they mentioned, is that we know that if the one saying that while intending with it '*umūm* that he would he would be a liar and as for if it would be possible for him to be truthful then it would not move away from being '*umūm* except with evidence.

And they say, "We have agreed on the obligation of using the addressment on some of what it (originally) necessitates, and we have differed on the remaining points, so we are not obliged anything except that which we agree upon."

And it is said to them and Allāh is the source of strength: This is a false objection from many angles: Firstly this is opposition to the texts, 'aql and ijmā' because the ummah has unanimously concurred and the 'aql judged and the texts from the Qur'ān and Sunnah have come and all of them concur that whenever certain evidence is establishes that it must be taken even if the people differ upon it, and it is obligatory not to limit taking from that, that which the people have concurred on and excluding from that what they differed on. Except for the issues for which there is no evidence for except ijmā' alone conveyed from the Prophet only. And also, Allāh said, "If you differ about anything then return it to Allāh and His Messenger" [An-Nisā': 59]. The order of Allāh during a dispute to return to the Qur'ān and the Sunnah and their indications has established the obligation of diverting words upon their placed meanings in the language.

And also they contradict in this saying, because they are implied based on that not to fight any *mushrik* except a *mushrik* they have concurred on fighting, and they do not do that, because if the one using such as evidence among them is a Mālikī he has contradicted, because they kill the female apostate and there is no agreement on that and they fight the son of the apostate which was born after his apostasy and he becomes and adult but does

not accept Islām, the same for his grandson, while they do not concur on the killing of him. And they fight the *mushrik* if they insult the Prophet while they do not concur on the fighting of such. And if the one using such as evidence is a Shāfi'ī then they likewise contradict, and they fight the Jew that changes his religion to Christianity and they fight the Christian that becomes a jew except if he becomes Muslim (while there is no agreement on this). And if he is a Ḥanafī then they fight the Muslim — while he is differed upon his killing — if he fights a $k\bar{a}fir$ because of the general verse, "The soul for the soul" [Al-Mā'idah: 45].

And whoever (the Ḥanafīs) refrains (has *tawarru*) from fighting an infidel whom Allāh, the Exalted, has permitted to fight and for whom the textual evidence has ordered to be fought, yet instead proceeds to fights a Muslim whose blood Allāh has prohibited both generally and specifically—using a general verse that neither addresses us nor obligates us to judge by (such as the verse: "A life for a life" [al-Baqarah: 178], which pertains to the rulings of the previous nations and does not bind us)—commits a grave sin with little piety and is guilty of one of the gravest of sins. And success is with Allāh, the Exalted.

Similarly, if one says, "I will only cut off the hand of a thief whose punishment has been unanimously agreed upon," they are also denying this because they, meaning the Mālikīs, cut off hands for less than ten *dirhams*, which is not agreed upon, and they cut off hands for the stealing of arsenic, lime, fruit, and meat, and for this amputation there is no $ijm\bar{a}$. The Ḥanafīs cut off the hand of one who steals something taken by force (ghaṣb) from the wealth of the usurper (the $gh\bar{a}ṣib$), and this cutting off their hands has no $ijm\bar{a}$ ' (ghaṣb) is not the same as sariqah which obliges the hadd). This saying obliges them not to act upon anything at all except what has $ijm\bar{a}$ ' and then they do not do this at all as it is as evident as the sun, so they have invalidated their own false source of evidence. And with Allāh Almighty is the success.

It is said to them, "Is this statement confirmed by a text or by $ijm\bar{a}$ "?" If they say by a text or mention some evidence, they lie and claim what they cannot find at all, and with their lying, they abandon their own saying by not acting upon anything except what is unanimously agreed upon, for they follow the text even if it opposes $ijm\bar{a}$.

If they say, "We said this because of $ijm\bar{a}$ '," they lie and are blatant. In summary, this is a doctrine for which no creation exist that believes in it,

which is that one does not speak (act upon anything) by the text until the $ijm\bar{a}$. agrees with it. Rather, there is $ijm\bar{a}$ 'that the one who believes in this saying is a $k\bar{a}fir$ without difference because he rejects the saying of the texts, which no one disputes the obligation to obey.

They also say, "Indeed, there are indications in the words that indicate approval or disapproval, such as changes in its complexion, the sharpness of the orders, reproach, and cheerfulness."

It is said to them, with Allāh Almighty's success, this is not relevant to our discussion, nor does the existence of these conditions prevent us from taking the order in its general sense. Then we reverse this against them regarding their saying about $khu s\bar{u} s$ and suspension (tawaqquf), They are implied then to make tawaqquf until they meet the Prophet on the Day of Judgment. This invalidates the religion and exits from Islām, and such questions resemble those of an ignorant, shameless atheist.

They also said, "You believe in the generality in what Allāh Almighty intended to be specific, thus you have contradicted Him, Glorious and Exalted."

It is said to them: And you, if you intend specificity in what Allāh, Blessed and Exalted, intended to be general, have contradicted Him, Glorious and Exalted. And if you believe in *tawaqquf* in it, Allāh Almighty has ruled in it by what He ruled, whether in general or specific terms. It must be one of the two, so you have with certainty contradicted Allāh without any doubt. There is no doubt that Allāh Almighty never intended *tawaqquf* in any of His rulings. Instead, He executed the judgment by what He executed.

And also we are certain that every matter for which there is no text or $ijm\bar{a}$ ' indicating that it is not in its general sense, that it is in its general sense without doubt and we are certain that it is from Allāh and we are certain that everything the 'umūm reaches and the khuṣūṣ does not reach him, or the mansūkh reaches him but not the nāsikh, then Allāh did not ever oblige him except reached him only, not that which did not reach him, Allāh said, "That I may warn you thereby and whomever it reaches" [Al-Anʿām: 19].

And we are certain that all of this is from Allāh because of the text of the Allāh that upon him is clarification, so what he did not clarify that it is upon a different way, we are certain that what is intended from us is what the word necessitates only and nothing else.

So these were all their objections, we have encompassed and invalidated and clarified all of its falsehood and how all of them are against them, and all praise is for Allāh.

Now we will clarify and Allāh is the source of strength, and his help sought to us, in mentioning the certain decisive evidences on the falsehood of their saying and the obligation of understanding all words as general.

The *salaf* among those who believed in taking the 'umūm used as evidence against those that oppose it, "If addressment would be upon tawaqquf or khuṣūṣ till there is 'evidence' that it is upon 'umūm then that 'evidence' does not cease by necessity to be in two manners with no third to it. It would either be from the mere words of an address or a meaning derived from an address. If it is an address, then the second address is the exact same as the first, with no difference. If the first then indicates generality by itself, then the second is the same. And if the first would not indicate generality by itself, then the second does not either. And if it would be a meaning derived from an address, then it is not possible for the derived meaning to be stronger than the address from which it was derived. This would necessitate an endless series of addresses, which is impossible, and it would also lead to the invalidation of the understanding of any address altogether."

The *salaf* also said, "We find in the language singular nouns that do not extend beyond understanding it for one, such as Zayd and 'a man,' which inherently and by their nature refer to one and cannot be understood to mean more than that. Then we find dual forms that do not apply to one nor to more than two. And then we find terms for the plural that apply to more than two. This remains applicable to everything that the plural entails, except when clarification comes for its $istithn\bar{a}$ ', description, or a number that limits the meaning to some of the group rather than all of it, in which case the understanding follows that specification."

The *salaf* also said, "It is said to those that speak of *khuṣūṣ*: what is the meaning of *khuṣūṣ*? They do not have an answer other than saying that it is understanding words upon only some of what its meaning necessitates, such as the verse, 'Fight the *mushrikīn* wherever you find them' [At-Tawbah: 5] they say, 'This is only for some *mushrikīn*.' It is said to them: By what did this word deserve the specification without the remaining upon that what you excluded? What is the difference between you and the one that reverses your

takhṣīṣ and says, 'Rather, the word applies to the meanings you excluded (took away) instead, and it does not apply to those whom you claim it does.'

If they say, 'So-and-so evidence led us to that the *takhṣīṣ* is only with an evidence, not understanding it upon some of what it necessitates without evidence.'

Then this is something we do not reject, we instead say: Whenever there is an evidence for *takhṣīṣ* established we take it, and with this, understanding words upon only some of what the words necessitate without evidence becomes false, which is what we intended to clarify. This is them abandoning their false method, and if there is not in their hands except merely making *takhṣīṣ* by those that make *takhṣīṣ* without evidence, they end up merely speaking about the religion as they desire and making mere claiming, and everything that has no certain decisive evidence is invalid and false."

And the salaf also argued against those that speak of tawaqquf, "Till when will you make tawaqquf, if they set (any) limit for it, they are ruling without any evidence. If they say, 'Till we see the evidences from the Qur'an and the Sunnah,' we ask them and say to them: And if you do not find evidence for the 'umūm nor the khuṣūṣ and you cannot find other words, then what will you do? If they say, 'Tawaqquf forever,' they have acknowledged disobedience and opposition to the orders and their method implies that Allāh did not clarify what he intended and that the Prophet did not clarify and did not convey, and this is kufr. And if they say, 'If we do not find evidence for the khuṣūṣ we take from the 'umūm,' then they have returned to that which they rejected before and they have acknowledged that they only understand speech upon its apparent, by its mere sīghah and its mere words, and that there is no evidence for it to be upon khuṣūṣ, which is our exact method which they first rejected, then soon came back to it. And if they say, 'Such does not exist,' they are obliged the questions which we asked before from our saying to them that evidence does not cease to either be an additional word or a meaning derived from a word, and they are obliged to put an end to understanding entirely in general, and verily this does exist, Allah said, 'Indeed Allāh orders you to render trusts to whom they are due' [An-Nisā': 58]. And he did not make ta'kīd in anything, and this is according to your acknowledgment 'umūm, and Allāh said, 'Do not marry whom your father married from woman' [An-Nisa': 22]. And there is no additional tawkīd mentioned here, and they still take it as 'umūm without additional evidence,

merely by these words alone. And there are many examples for this, it (the words being merely general) is instead what mostly exists In the Qurʿān and the Sunnah, they only claim *khuṣūṣ* in very few issues, and this is not the place (addressing their position on using a threat as *qarīnah* (evidence), because here we only address them regarding '*umūm* of all that a word carries, not on the obligation."

Mālik understood the verse, "While you are confined in the mosques" [Al-Baqarah: 187] to apply for all mosques, merely because of the text mentioning that word, not because of an additional evidence besides the words in this verse and also no clarification for it.

And he also understood the verse, "And those who accuse their wives, and have no witnesses except themselves" [An-N \bar{u} r: 6]. The wives as general without an additional evidence, and there is for none of that $ijm\bar{a}$.

And Abū Ḥanīfah understood the verse, "And that you take two sisters simultaneously" [An-Nisā': 23] as general, through $nik\bar{a}h$ and intercourse through slavery

And all of them understood the verse, "And your mothers who suckled you" [An-Nisā': 23] as general without evidence, there is instead evidence in this case established that it is specific, and they have rejected accepting it, so their contradictions have become evident and Allāh is the source of strength.

And they are also implied not to rule anything with $ijm\bar{a}$ as perhaps so-and-so differed, it did not reach them and also not to give any ruling at all from texts as perhaps it might be abrogated and also not to use any qiyas because $qiy\bar{a}s$ cannot happen except on texts and $ijm\bar{a}$. And tawaqquf is obligatory on deficiency (like these) and $ijm\bar{a}$ so then the entire religion becomes invalid based on this corrupt method.

And it is said to them: What is the difference between you and the one that specifies for the rulings of the texts a specific time excluding other times, just as you specify for what it applies to excluding some. If they say, "Verily the Prophet is only send to rule for every single time," it is said to them: And likewise he is sent to rule every single individual, without any difference.

And we have clarified at other places that the language is only placed for there to occur understanding, so for every single meaning that exists, there is a name specific for it, for every *jins* and for every *naw* and so on forever,

till there is for every *shakhṣ* a name. Anyone who tries to invalidate this is a true sophist who reverses the matters upon their faces, invalidates the realities, but Allāh insists on completing His light.

And there is no difference between the $akhb\bar{a}r$ and the orders in all of that and every name necessitates generality of what is placed under it, it does not transgress to other than what belongs under it. And the wa'd and $wa'\bar{\imath}d$ and other types of addresses are the same without difference and the $had\bar{\imath}th$ and the Qur' \bar{a} n are all like one, no verse is ruled without the other and no narration excluding another narration, all of them are instead combined, gathered. All of that is some of it, and some of it is not better than the remaining to be followed. Whoever does contrary to this has merely claimed as he desires.

And it is said to them: What is the difference between you and the one that says, "Perhaps any addressment mentioned is only specific for the companions without anyone other (after) them," everything they say here is reversed against them in their claim of the specification that it is for some of what occurs on the address without including others under the words, and it is said to them: On what basis do you permit the fighting those you fight from the *mushrikīn*, the cutting off of those you cut off from the *surrāq*, the flogging of those you flog from the *zunāt*, and the punishment of those you punish from those that make *qadhf*, specifying these punishments on some of them and not on others who fall under the name of *zānī*, *qātil*, *qādhif*, or *sāriq*? Is all of that not merely because they did *sariqah*, *qatl*, *zinā*, and *qadhf*? The same applies to those whom others have excluded from the ruling and from whom you have lifted what you imposed on the aforementioned. So, on what grounds did you single out those upon whom you enforced the ruling, while excluding those you did not?

If they say, "(In these cases it is) because of evidences that indicate it," then we do not reject that and we say to them, this is our position and it suffices us that we have removed you from ruling with the mere specification, which is slander against Allāh Almighty in ruling from Him with what He did not permit.

And some people have attempted to differentiate between orders and *khabar*, arguing that they are compelled to act upon orders, and that the *khabar* is not the same.

And this is a corrupt distinction because we are compelled to believe in the validity of the *khabar* and to acknowledge it as it is presented in the texts, just as we are compelled to act upon the orders, and there is no difference.

Correct belief (i'ti $q\bar{a}d$) is an act of All $\bar{a}h$ in the soul, while the acknowledgment of that belief is an act of the individual, involving the movement of speech tools such as the tongue, palate, and the articulation points of letters. There is then no other way than that one either confines acknowledgment to what one believes or makes it general.

The fear of error in acting upon orders is the same as the fear of error in i 'tiq $\bar{a}d$ of the $akhb\bar{a}r$, in what is permissible. Believing in falsehood is impermissible, just as acting upon falsehood is impermissible. So it is evident that $akhb\bar{a}r$ and orders are the same, with no distinction between them.

Some of the *salaf* who believed in 'umūm used as evidence against those who argued for *khuṣūṣ* us, they said, "What do you say about Allāh's statement, 'Seal of the prophets' [Al-Aḥzāb: 40], is it (specific) for the Arabs only, or is it general by the very wording? If they say it is specific, they disbelieve, and if they say it is general by the mere wording, they abandon their corrupt method."

If they claim that this is only because of $ijm\bar{a}$, it compels them to affirm anything only if it has $ijm\bar{a}$. We have already demonstrated the corruption of this claim, for if they were to say that they would themselves depart from $ijm\bar{a}$ because the ummah concurred that limiting oneself to the $ijm\bar{a}$ alone without acting upon the texts, even if there is disagreement, is prohibited. No Muslim does this, nor is it permissible for a Muslim to do so. The text from the Qur'ān and the Sunnah came with the obligation to obey the Prophet . And his judgment during any dispute and any difference of opinion.

And also they do not do any of that themselves, so them clinging onto that is invalid in every single aspect, and all praise is for Allāh the most Exalted.

If they say, "We (only) know that Muḥammad is the last Prophet because of the narration in which he said, 'There is no Prophet after me."

It is said to them: This can (according to your method which is false) still be $khu\bar{y}\bar{u}\bar{y}$ without any difference (between this and your previous claims)

⁶ Sunan al-Tirmidhī 2219

perhaps he meant with, 'There is no Prophet after me,' from the Arabs or in Hijāz without difference, or for one hundred years and what is similar to such claims, just as the 'Isawiyya among the Jews claimed, and the Jarmadāniyya who believed in the continuity of messengers, and the ghāliya who claimed the prophecy of 'Alī, Nazī', al-Mughīrah, Manṣūr al-Kasf in Kūfah, and Bayān, and Abū al-Khattāb. Also, since the ijmā has been established on that, it is the greatest evidence against them, for the $ijm\bar{a}$ of the ummah is upon understanding this statement in its general sense. Likewise, they are asked about the saying of the Prophet #, "I was sent to the red and the black." And this could be specific (according to their method) just as the verse, "And the male thief and the female thief, cut off their hands" [Al-Mā'idah: 38] and as the verse, 'And those who accuse chaste women and do not produce four witnesses, flog them with eighty lashes" [An-Nūr: 4]. So for what reason did you specify one of the two statements without evidence and took the other in its general sense without evidence except for the word itself.

Some of the salaf who also believed in 'umūm used as evidence against them by saying, "You concur that if a word is emphasized (has $ta'k\bar{\imath}d$), it is taken in its general sense. It is said to them: Emphasis (itself, not that which it emphasizes) can (also) hold specific meanings just as the emphasized statement does, without any difference. The text has come with this, as He, Exalted is He said, 'So the angels prostrated, all of them, together, except Iblis' [Al-Ḥijr: 30]. So the exception came after two emphases (ta'kīds). Allāh said, 'But the word from Me will come true: I will fill Hell with jinn and humans all together' [As-Sajdah: 13], and then the exception came with His saying, 'Indeed, those for whom the best [reward] has preceded from Us - they are from it far removed. They will not hear its sound, while they are, in that which their souls desire, abiding eternally' [Al-Anbiya': 101-102]. And Allāh Almighty said, addressing Iblis, 'I will surely fill Hell with you and those of them that follow you all together' [Sad: 85], and then the exception came regarding those who repented from following Iblīs and regarding those whose good deeds equaled their bad deeds in which they followed Iblīs. So, the specification came as you see after the emphasis, nullifying their argument by the emphasis (the claim that emphasis makes

⁷ Sunan Abī Dāwūd 489

something general), and obligating them not to consider any address as general ever, whether emphasized or not emphasized (because they claim if something becomes specific in some cases it is by default always specific). This implies them to make *tawaqquf* forever and not benefit from the emphasis or anything else."

If they say, "You are implied that when the exception comes, that you must acknowledge that intend of the general address was specification."

We say to them: And we are not objecting to our Lord Almighty or to our Prophet . We know only what Allāh Almighty taught us, and we do not deny them diverting words from their apparent meanings, nor do we reject them making rulings for us, nor them prohibiting what they prohibited, nor them permitting what they permitted. Even if they ordered us to fight our fathers and mothers and sons, we would hasten to do so, readily or we would hold back while acknowledging that it is a sin, not calling to misguidance, nor justifying our sins but asking Allāh Almighty for forgiveness from that, desiring repentance.

And what I am fearful is that the one who casts these two points of claiming tawaqquf in following the apparent and in obligation and in generality and in immediacy (of carrying out orders), and claims of diverting the words of Allāh Almighty and His Messenger ## to ta'wīl without evidence, and nullifies obligation without evidence, and specifies without evidence, and delays obligations without evidence, is a *kāfir*, *mushrik*, *zindīq*, deceiver to the Muslims, seeking to nullify the religion. For this bright (zahrā'), easy, and tolerant faith (Hanafiyyah al-Samha) has been plotted against from various directions, and perils have been sought against it from various ways, and snares have been set for it from hidden paths, and it has been attacked with obscure tricks. The most severe of these ways is the effort of those who disguise themselves in their attire, call themselves by their names, and insert the venom of snakes into the honey and the cold water, by that subtly leading them to oppose the Qur'an and the Sunnah. So, they achieve what they intended from those whom Allah Almighty willed to misguide. And by Allāh Almighty, we seek refuge from tribulation and ask for protection by His grace. There is nothing worthy of worship in truth except Allāh.

So, let your suspicions, O people, be bad concerning those who beautify for you the departure from the apparent words of your Lord

Almighty or the words of your Prophet \cong without decisive evidence from them or $ijm\bar{a}$ ' from the entire ummah. And those who adorn for you the delay in obedience to them, make it easy for you to leave submission to them, and bring you closer to manipulating their addresses and differentiating between them by obeying some and disobeying some—this is the $khu\bar{s}\bar{u}\bar{s}$ they claim without certain decisive evidence. And by Allāh, we seek protection.

They are implied, as they allow specifying the words of the Qurʿān and the Sunnah without certain decisive evidence and *tawaqquf* in them, to allow the same in amounts. There is no difference. They would then have to make *tawaqquf* in what Allāh Almighty obligated, such as fasting the amount of two consecutive months for the expiation of *zihār*, the expiation of killing, and the expiation of the one who has intercourse in Ramaḍān. According to their method perhaps Allāh Almighty has excluded ten days from the two months in a narration that has not reached them or by a *qiyās* they have not yet noticed, just as Allāh Almighty excluded fifty years from the period of Nūḥ among his people after mentioning a thousand years. And the likes of this applies to all that they have been addressed with. This, as we presented earlier, only nullifies the religion along with their gross contradiction and that it is a claim in their hands without evidence.

If they say, "But this is not possible in numbers because if the exception is not connected to it, it would be a lie," they are told: likewise, the narrations, if they would not be understood upon their generality (and would be instead by default understood as specific) while there is no other text or ijma' that came to specify them, it would be a lie, there is no difference between the two. The same applies for orders, if it would by default be understood specifically, while there is no other text or ijma' clarifying that it is specific it would have been a coercion into great difficulty $(ta'n\bar{\imath}t)$.

And some of the *salaf* that believed in 'umūm also said, "If from every mere addressment that which it necessitates is not understood, from its words, then perhaps your saying, 'We believe in tawaqquf,' and the saying of those among you that believe in khuṣūṣ, you only mean that in some cases (use that method only partially). And perhaps you intend that which you did not make apparent to us from your speech, for you always debate us that we should not understand words from their apparent and also not upon their generality, then the first thing that is necessary to use this in are your own words, then you become someone whom nothing is understood from, your

intentions and your addressment, and then pure *safsaṭah* is established from you."

And similarly it is said to those that believe in *tawaqquf* or *nadb*: Are you obliged (Do you oblige) to understand the things mentioned by Allāh and His Prophet ## that they are not obligatory, or upon *tawaqquf* or do you only recommend understanding them as *nadb*?"

If they say, "We oblige," it is said to them: Then what is that which makes your words understood as obligations while the sayings of your Lord are not upon obligation, this is a severe *kufr* from whom believes in it and a severe misguidance from those that make *taqlīd* of it. And if they say, "Verily we see it as *nadb*," then they acknowledge that we are not obliged to accept their saying and Allāh is the source of success.

And also their saying about understanding the words upon $khu s \bar{u} s$, the meaning thereof is understanding them upon some of what the words necessitate. This is something beyond anyone's capacity to understand and grasp its true nature ever, because we do not know which parts of that sentence are accepted and which are rejected, and no part is more deserving of bearing the ruling than another. So this becomes a $takl\bar{t}f$ for what is beyond ability, and this is the very essence of sophistry and the total nullification of truths. And Allāh has denied their claim by His saying, "Allāh does not burden any soul beyond its capacity" [Al-Baqarah: 286].

And it is also said to them, "And He taught Ādam the names of everything" [Al-Baqarah: 31].

Does this favor of teaching which Allāh bestowed upon our father Ādam have any benefit or does it not have any benefit. If they say, "It does not have any benefit," they apostate and they have belied in the angels when they acknowledged that it was an immense knowledge, which (even) they did not have till the creator taught them.

And if they say, "Verily there is in that teaching a benefit," they are asked what it is, till they reach the point of admitting that the benefit of it is applying names on the named and distinguishing between the named entities and knowledge of the attributes of the named entities by which the difference available implies difference in the names, by which understanding occurs between the kind that Allāh has settled on His earth, and He sent to them the prophets with the rulings, so that those who perished would perish upon evidence, and those who lived would live upon evidence.

And since this has been established and proven, anyone who wants to assert that names do not convey their named entities as general what the word necessitates, and do not make known what they necessitate is invalidating both 'aql and the rulings together.

They are implied then to apply this to His saying, "Forbidden to you are your mothers" [An-Nisā': 23] It would be said that this applies to only some mothers, and only some sisters, or that what is forbidden (as mentioned in the verse) is only selling or eating them but not having intercourse with them, in the exact same way you have understood His saying, "Fight the polytheists wherever you find them" [At-Tawbah: 5] to mean some polytheists and not others, so you do not permit fighting monks or female apostates or the children of apostates if they reached adulthood as disbelievers. Just as you have done with *qadhf*, you did not impose the hadd punishment on one who slanders a disbeliever or a Muslim slave. All that you have understood specifically, and the like applies to you necessarily in every address in the Qur'ān and Sunnah. By Allāh's grace and with His praise.

And it is said to those who claim, "That what indicates understanding as general is only the *ta* 'kid."

We say: We mentioned before that there exists texts with ta 'kid that are $khu\bar{s}u\bar{s}$ and that this implies them according to their own method that no ta 'kid is ever ' $um\bar{u}m$. And also if the ta ' $k\bar{t}d$ were as you mentioned, it is contradictory, for we find that emphasis occurs twice or even three times. If the first ta ' $k\bar{t}d$ served to shift the word from $khu\bar{s}u\bar{s}$ to ' $um\bar{u}m$, then the second ta ' $k\bar{t}d$ would do the same. This would necessitate that the second ta ' $k\bar{t}d$ shifts the speech, already emphasized by the first ta ' $k\bar{t}d$, from $khu\bar{s}u\bar{s}$ to ' $um\bar{u}m$. This would mean that the first ta ' $k\bar{t}d$ entails both $khu\bar{s}u\bar{s}$ and $khu\bar{s}u\bar{s}$ simultaneously, which is impossible which no one can comprehend.

The correct understanding, as we have previously clarified, is that emphasis serves only to silence the arguments of people like them, and it does not shift the emphasized speech from specificity to generality at all, for verily Allāh Almighty said, "So the angels prostrated, all of them, entirely (*fasajada al-malā ʾikah kulluhum ajma ʾīn*)" [Al-Ḥijr: 30].

Some of those that believe in *tawaqquf* have responded on this issue, "The meaning of the verse, 'Entirely (*ajma'īn*)' [Al-Ḥijr: 30] is not the meaning of 'All of them (*kulluhum*),' because 'All of them (*ajma'īn*),' takes the saying of Allāh, 'The angels (*al-malā'ikah*),' out from *khuṣūṣ* to '*umūm*,

and 'Entirely $(ajma\ \tilde{\imath}n)$,' only indicates that they prostrated together (gathered) not separated."

This is extreme ignorance and excessive falsehood, because 'All entirely $(jam\bar{\iota}\,an)$ ' does not mean 'Together $(ijtim\bar{a}\,an)$ ' nor does it $(ijtim\bar{a}\,an)$ ' belong to its category. This is blatant in the language, and the people of the language do not know it. No one of the people of the tongue understands the speaker's statement, "The people came to me all $(ajma\,ann)$," to mean 'Together $(mujtami\,ann)$,' but it is possible that those who came were individuals, scattered. This is the sophistry that the predecessors warned against.

The summary is that these people use as evidence/cling onto words they found outside their original places in the language, either as metaphors (majāz) or as shared meanings (ma'ān mushtarak). By this, they affirm the invalidation of all realities, the invalidation of names referring to their named entities, and invalidating that meaning has a specific name and that under the names there are meanings which encompass everything the names refer to. They are (at this point) like the one that says, "Since I found many lies in speech, I consider all speech as lies. And since I found many abrogated rulings which is not permissible to act upon, so I understand everything as abrogated and I make tawaqquf on all acts." There is no difference between the one that says this and the one that says, "Since we found words that are sometimes not apparent, we make tawaqquf from all words, we do not use them upon their known meaning, as perhaps something else is intended with it which cannot be comprehended." There is no difference between this and their saying, "Since we find words not upon their general meaning, we make tawaqquf in all of that, we do not apply it on that which it necessitates."

And also, since they say, "Since we find words that are not apparent or not general we make take nothing as general except evidence, or everything as specific by default except with evidence."

It is reversed against them in the exact same manner: Since we find in the texts words that are general and words that are apparent, we use them all as apparent and all as general except if there is evidence for $khu\bar{y}\bar{u}\bar{y}$.

Some of *ahl ul-waqf* said when we asked: How do you know about the word being general, by its mere word alone or by meaning? We imply thereby then that the possibility of specification is included in the second, (which is the specification for the general) and that a difference between them

is false, just as it is in the first, and so on forever. They are burdened with making a difference between the second and the first, and they fail at that, as there is no way to distinguish between them. Then they said, "(The difference between them is because) the things by which generality appears are not confined nor have any limited," and they were not able to clarify this.

This is the impasse that, when reached, one falls exhausted and realizes that he has no means and no power. It is a sign of incapacity and weakness. Anyone who admits that he cannot clarify his statement has reached a point where no one with a tongue fails to do so if he permits himself to be scandalous. No one is unable to claim whatever impossibilities and assertions he wishes. When he is burdened for an explanation or evidence, he says, "It is not possible to clarify it."

This baffled individual justified his position by saying: "It is just as the number that necessarily produces certainty in narrations cannot be defined."

He has lied, instead, this is something that can be known, and we have clarified it previously. It is that when two individuals, coming from different regions, report an incident independently without meeting or conspiring, and it is certain that they have neither met nor collaborated, yet they narrate a long account that could not have been fabricated by mere coincidence, and they have no worldly incentive to fabricate—whether it be desire, fear, or bias—and they describe something they have seen or heard from two or more sources in the exact same manner we just mentioned, then this is a necessary report (tawātur) that produces certain knowledge without any doubt.

However, if tens of thousands were gathered and tasked to convey a particular account while being motivated by desire, fear, or bias, it is possible for them to agree on a fabricated report. We have seen this in cases of praising or criticizing rulers. However, this type of fabrication is not hidden but is instead evidently known about them, because even when they unite in delivering such a fabricated account, each one of them discloses the truth to their friends, spouses, and neighbors both before attending the gathering and after dispersing from it.

This is something observable every day in people's circumstances and their transmission of news—whether regarding death, birth, marriage, divorce, dismissal, appointment, promotion, or similar matters. People have

overlooked this only due to the scarcity of those who pay close attention to such cases and because many forget what they witness in such situations.

So, listen carefully—may Allāh have mercy on you—to what we say. Know that anyone who does not understand the words of Allāh and the words of His Messenger **according to their apparent meaning, generality, and obligation, then his stated position is this: whenever Allāh or His Messenger **issues an order, he says, "I do not accept any of this speech, as perhaps it has a *ta'wīl* that departs from its linguistic meaning, and I do not act upon anything you have ordered me, because it is not understood as obligatory or general. Perhaps you intended only a specific part of what it encompasses."

Know that this is clear *kufr*, an open and evident departure from Islām, leaving no alternative but to return to obedience to Allāh and His Messenger to adhere to the Qur'ān and Sunnah according to their meaning in the Arabic language, and to act upon the orders they contain. This is Islām, so adhere to it and reject anything that opposes what we have previously mentioned, for such opposition leads to destruction. Seek refuge in Allāh from this, and Allāh is the source of success.

By the grace of Allāh, the falsehood of those who advocate for *khuṣūṣ* (specificity) and *tawaqquf* (suspension of judgment) has become evident through undeniable certain decisive evidences. And all praise is for Allāh.

Section: Clarification Of The 'Umūm and Khuṣūṣ

Speech is divided into three categories. Some of it is specific intended for the specific ($khu\bar{s}u\bar{s}$), such as saying 'Zaid' and 'Amr' and the like. And some of it is general intended for the general (' $um\bar{u}m$), meaning that it applies to everything its wording entails.

Some of it is a name for a genus (*jins*) that includes many kinds (*anwā*), as in Allāh's saying, "We made from water every living thing" [Al-Anbiyā': 30]. So, under the what is mentioned "living thing" fall humans, all types (*anwā*) of birds, all types of four-legged creatures, and all types of insects. However, excluded from this generality are the angels, as the Messenger sinformed us that they were created from light. Similarly, the *jinn* are excluded, as they were created from fire by explicit mention in the Qur'ān. Except that we consider it unlikely that their composition includes water, even though their primary element is fire—just as our own composition includes water, fire, and air, while our primary element is earth.

Some of it is a name for a specific type (naw), such as Allāh's saying, "And the horses and the mules and the donkeys" [16:80]. This applies generally to all horses, all mules, and all donkeys, but excludes other types ($anw\bar{a}$), as these are all each a single naw. This is not specificity, because the meaning of the term ' $um\bar{u}m$ (generality) refers only to what the wording itself entails, not to what it does not encompass. Whoever refers to this as specificity is creating confusion.

Khuṣūṣ (specificity) applies only to what remains of the statement after part of it has been excluded. What is excluded, as well as what remains, is khuṣūṣ, because the generality we referred to has necessarily been negated. The wording then no longer applies to everything it initially encompassed. So when it is no longer referred to as general, it is specific, as some of it has been specified through exclusion and some through inclusion.

And from that what applies to those with a particular attribute from a *naw*', such as Allāh's saying, "And [give] to the near of kin" [Al-Anfāl: 41] This is general for all near kin, excluding others, and includes everything to which this name applies with this attribute. Another example is Allāh's

saying, "Ṣadaqah expenditures are only for the poor and for the needy" [At-Tawbah: 60] this is general on all obligatory ṣadaqah, it being for all obligatory ṣadaqah only has additional evidence for taking out what is not obligatory. And this given is general to all poor and all needy person, and for every worker, and everyone that reconciles the hearts, and to everything that is called raqabah (slave), except if there is anything specified (additionally) from texts or ijmā'.

And the third type of generality is when the Qur'ān or Sunnah indicates that something has been made an exception from it. In that case, the thing excluded becomes specified ($makh s \bar{u} s$) from the ruling conveyed by that word.

Among the forms of ' $um\bar{u}m$ is when a word is mushtarak (shared) and applies equally to various meanings in the language. The term "equally" here means that its application is real ($haq\bar{i}q\bar{i}$) and valid ($sah\bar{i}hah$), not metaphorical ($maj\bar{a}z\bar{i}$). If this is the case, it is obligatory to understand the word as encompassing all the meanings it applies to. It is not permissible to limit it to only some of its meanings, based on the definitive evidences we previously established regarding the obligation of adhering to generality (' $um\bar{u}m$).

Those who opposed this from among *ahl al-zāhir* have fallen into contradiction. There is no difference between a name applying to three or more things of the same type (*naw*), encompassing the entirety of that type—such as when you say, "the poor and the needy"—and a name applying to three or more things with differing definitions/limits. In both cases, the name applies equally to all, with none being more deserving of it than the others.

That is why we say regarding the verse: "The fornicator shall have $nik\bar{a}h$ with none but a fornicatress or an idolatress, and the fornicatress shall have $nik\bar{a}h$ with none but a fornicator or an idolater. This is forbidden to the believers" [An-Nūr: 3]. This verse is upon its generality, and it is not permissible for any Muslim man—whether a fornicator or chaste—to have $nik\bar{a}h$ with a fornicatress, neither through intercourse nor through a marriage contract. If such a $nik\bar{a}h$ does occur, it is annulled ($mafs\bar{u}kh$) forever, unless they repent before entering into the marriage contract. Likewise, it is not permissible for a Muslim woman—whether a fornicatress or chaste—to have $nik\bar{a}h$ with a fornicator unless he repents. If such a $nik\bar{a}h$ occurs, it is annulled forever.

But we permit a male fornicator to have *nikāḥ* with a chaste woman from among the *dhimmīs* specifically. This is because the prohibition in the text occurred only on believers, and while male and female fornicators are included among the believers, no such prohibition has been established for the disbelievers. This distinction is a mark of honor (*karāmah*) for Muslim men and women, which does not apply to disbelievers, as their condition is one of abasement.

Our companions have contradicted themselves here, as they understood $nik\bar{a}h$ in this verse specifically to be intercourse specifically, but then in the verse: "And do not have $nik\bar{a}h$ with those women whom your fathers had $nik\bar{a}h$ with" [An-Nisā': 22], here understood $nik\bar{a}h$ as general, encompassing everything the word $nik\bar{a}h$ entails (intercourse and marriage are both real meanings of $nik\bar{a}h$ not $maj\bar{a}z\bar{\imath}$). This is, as you can see, an understanding (a distinction) without evidence.

As for those who claim that the verse: "The fornicator shall have *nikāḥ* with none but a fornicatress" [An-Nūr: 3] is abrogated by the verse: "Marry the unmarried among you" [An-Nūr: 32], they are mistaken for two reasons:

First is $ijm\bar{a}$ of the *ummah* that it is not allowed for anyone to say regarding a verse or narration that they are abrogated and that it is not allowed to act upon them except with a clear text or $ijm\bar{a}$.

Secondly: The verse, "Marry of the unmarried among you," [An-Nūr: 32] there is not in it that which rejects the verse, "The female fornicatress does not have $nik\bar{a}h$ except with a fornicator or infidel," [An-Nūr: 3] just as there is not in this the permissibility to marry the sister, the daughter who are mahrams, even if they are from the unmarried ones, but one of the two verses is added to the other. So we marry off the unmarried ones among us as long as they are not fornicatresses. While it is not likely that in the language unmarried ones occurs on the fornicatresses. So it is obligatory to use both verses, because $istithn\bar{a}$ of each other is possible. And we have clarified that it is not permissible to leave one text for another ever.

Similarly we and our remaining companions said, regarding the verse, "And those who accuse the $muh san \bar{a}t$ and then do not bring four witnesses, lash them eighty times" [An-Nūr: 4]. So everyone among those that believe in the $z\bar{a}hir$ except the people that make tawaqquf without certainty said: Verily it is obligatory to lash for qahf completely on every

single one that makes qadhf on every single muhsanah, whichever meaning occurs on the word muhsanah, among the chaste, or Islām or marriage, so we oblige the hadd on the one that makes qadhf against the slave girl, the female $k\bar{a}firah$, the a female child.

And similarly we oblige $zak\bar{a}h$ on barley, wheat and dates without other fruits and without other seeds, because of the saying of the Prophet $\stackrel{\text{def}}{=}$, "There is not upon other than five awsuq (2.75kg) amounts of habbu (wheat and barley) or dates $zak\bar{a}h$." And the words "other than $(d\bar{u}na)$ " in the language in which we are addressed occurs on two real meanings equally not metaphorically, (so $d\bar{u}na$ means:) 'lesser than', and 'other than,' just as Allāh said, "Or did they take other than $(d\bar{u}na)$ Allāh" [Az-Zumar: 43].

And the saying of the Most Exalted, "Prepare against them what you 'believers' can of 'military' power and cavalry to terrify Allāh's enemies and your enemies as well as other $(d\bar{u}na)$ enemies unknown to you" [Al-Anfāl: 60].

So Allāh mentioned those that are open in enmity against the Muslims and others from other than them who conceal it, so understanding the word $d\bar{u}na$ in the narration as 'lesser than' is not better than understanding it as 'other than,' so it is obligatory to make use of both meanings together. Our companions have contradicted in this and did not understand it except on the meaning of 'lesser than only.'

This is them abandoning their position on ' $um\bar{u}m$, and even according to that corrupt method understanding the word $d\bar{u}na$ as 'other than' is more likely because the meaning of other than in its generality is lesser than, so it is part of speaking with ' $um\bar{u}m$, because lesser than five awsuq is also other than five awsuq, and Allāh is the source of strength.

So these are the categories of understanding words, some people made a fourth category, they said, " $Khuṣ\bar{u}ş$ by which ' $um\bar{u}m$ in intended." This is a mistake, such a category does not exist in the language, we will clarify this in the chapters regarding $qiy\bar{a}s$ and in the chapter of $dal\bar{u}l$ ul- $khit\bar{u}b$ by the will of Allāh.

If they object to us with narrations that mention rulings for individuals mentioned by their name, claiming that their rulings become general for everyone, such an assumption is false. Instead, all such narrations have rulings tied to specific circumstances that necessitate applying those

⁸ Sahīh Muslim 979, 3/66

rulings to the $anw\bar{a}$ (types) of those circumstances that occur with everyone. This is by adhering to the wording of the ruling that is linked to the meaning being judged upon.

We have clarified that the Prophet *was not sent to rule over only the people of his era, but for everyone who will come until the Day of Judgment, and for everything that occurs—whether concerning a jism (physical entity) or an 'arad (incidental quality)—until the end of time. Since it is not possible for the Prophet storemain alive to meet every individual, his ruling on a specific person in a particular circumstance becomes a ruling for the occurrence of that circumstance itself, making it applicable to anyone who encounters that situation.

This is clarified by the narration of the Prophet in which it is mentioned, "He is Jibrīl, he came to you teaching you your religion."

He clarified clearly that every single addressment of the Prophet # for one individual, in which he makes clear (any of his words) are an addressment for everyone from his ummah till the day of judgment. And that the teaching of the Prophet is for everyone that will come till the end of this world, because that narration is only narrated with the words of him teaching one individual in his saying in that exact narration, "That you worship Allāh as if you see him." What is sufficient from this narration is the saying of the Prophet after his answer to Jibrīl that verily what he said was a teaching for them, so he pointed towards the previous addressment which was for one.

And this is also clarified by the verse, "For your Lord has decreed that you worship none but Him. And honor your parents. If one or both of them reach old age" [Al-Isrā': 23]. So Allāh began this verse addressing a group in plural, then he addressed in the conjoined sentence only one, "And do not say to them 'uff'" [Al-Isra': 23]. So it is established that the intended meaning of this addressment is every Muslim and the ruling upon names. Every name for which the Prophet # made a ruling, that applies for everything that comes under that naw' upon which that name applies on.

And they are people who abandon this question the most because they approach the narration about the ruling of the one male copulating (wāṭi') during Ramaḍān. And that is what is ordered regarding that from kaffārah, and it was not enough for them that they made this ruling general

⁹ Sahīh Muslim 8, 1/36-37

for every $w\bar{a}ti$ (male having intercourse) till they transgressed and made that $kaff\bar{a}rah$ also for ever every eater and drinker which is absolutely unrelated to intercourse, and then also upon every $mawt\bar{u}$ (the copulated woman) and the woman that eats and the woman that drinks among the people.

And they approached the narration of the prophet \approx regarding the one that passes away during his $ihr\bar{a}m$ (the order not to wash them), and say, "This ruling does not transgress to the deceased." Then they approached the order of the Prophet \approx to wash his daughter¹⁰. Then they say regarding this, "This is a general ruling for every single deceased (including $ihr\bar{a}m$)." And they approach the narrations about his prayer on the grave of the $misk\bar{n}ah^{11}$. Then they say regarding this, "This is specific for that $misk\bar{n}ah$," and they have such rulings more that exceed over one thousand, all of them contradict each other.

And the astonishment is their *qiyās* on the breaking of the fast to the breaking of another fast, so they made for eating, the *kaffārah* of the one having intercourse, but they do not use *qiyās* of fasting to fasting, so they do not oblige *kaffārah* on the one that breaks on purpse the fast when he makes fasts up of Ramaḍān, and also not the one that fasts due to vows, and none of these have an *ijmā*, because Ibrāhīm al-Nakhaʿī and Saʿīd ibn Jubair do not believe in *kaffārah* for the one having intercourse. And the companions of al-Shāfiʿī all do not believe in a *kaffārah* for the one breaking it without intercourse, and Qatādah believed in a *kaffārah* for the one that breaks the fasts he makes up for Ramaḍān just as it is the case for the fasts of Ramaḍān without difference, as an obligation and another obligation, a fast and another fast, a breaking of the fast and another breaking of the fast.

And a group of people have claimed regarding narrations that have been mentioned that they are specific such as the narration of breastfeeding Sālim¹³.

The matter is not as they said, instead every breastfeeding makes a *maḥram* by the apparent of the Qurʿān except what the Sunnah specified out from four breastfeedings and lesser than that.

¹⁰ Sahīh al-Bukhārī 1255, 1256, 1259

¹¹ Sunan al-Kubrā 2034, 1/623, 2097 Al-Mujtabā 3/40, 3/29 | Muwaṭṭaʿ 15, 1/227

 $^{^{12}}$ Al-Muṣannaf by ibn Abī Shaybah 2/321 | Al-Muṣannaf by 'Abd ar-Razzāq 4/196-198

¹³ Şaḥīḥ al-Bukhārī 4000

As for the breastfeeding of Sālim, a group of people said, "That was only a ruling regarding adoption, and adoption got abrogated with the verse, 'Call them by their fathers' [Al-Aḥzāb: 5] since adoption got invalidated, the ruling related to it also got invalidated and since it is not known which one of the two matters was before—the narration of Sālim or the saying of the Prophet , 'Breastfeeding is only from hunger.' It is obligatory to take from the additional ruling on the *ma'hūd al-aṣl*, so the narration, 'Breastfeeding is only from hunger,' with the verse, 'Mothers will breastfeed their offspring for two whole years, for those who wish to complete the nursing' [Al-Baqarah: 233] is an addition on the *ma'hūd al-aṣl* on the *taḥrīm* with the general breastfeeding, so it becomes obligatory to take from the general."

Instead the narration of Sālim is the additional ruling, and it is necessary to take from it, because the verse, 'Mothers will breastfeed their offspring for two whole years, for those who wish to complete the nursing' [Al-Baqarah: 233] invalidates (the obligation) of the ruling of breastfeeding other than two years, so the narration of Sālim becomes an additional ruling on the verse and it rules with the continuation of the *taḥrīm* by breastfeeding forever (other than two years). We do not know in catastrophes worse than the saying of the one that disobeys the Prophet regarding the *taḥrīm* of breastfeeding Sālim, but hears and obeys the view of Mālik regarding breastfeedings of two months after the two years only. And Abū Ḥanīfah on the *taḥrīm* of breastfeeding for six months after the two years only.

That what clarifies our position is the saying of the Prophet ** to Abū Burdah regarding him sacrificing a she goat younger than one year, "It will be valid not be valid for anyone other than you." 16

Another example for that is the verse, "Exclusively for you, not for the rest of the believers" [Al-Aḥzāb: 50] the Prophet departs with this

¹⁴ Sahīh al-Bukhārī 2647

¹⁵ Al-Ifsāh by ibn Hubayrah 2/148

¹⁶ Sahīh Muslim 537

marriage from the general saying, "There has been for you in the Prophet # a great example" [Al-Aḥzāb: 21].

And likewise is the order of Allāh, "O believers! Respond to Allāh and His Messenger when he calls you to that which gives you life" [Al-Anfāl: 24] the Prophet is made an exception from the general saying of the Prophet , "Verily, in this prayer, no speech of mankind is allowed in it."

Abū Yūsuf the companion of Abū Ḥanīfah contradicted and he saw the saying Allāh, "And if you are with them and lead them the prayer," [An-Nisā': 102] as specific for the Prophet , but he did not see the saying of Allāh, "Take from their property a ṣadaqah (zakāh)" [At-Tawbah: 103] as specific for the Prophet , this is a clear contradiction.

The prayer of fear is necessary for us, not specific for the Prophet, because of the saying of the Prophet, "Pray as you have seen me pray." 18

And taking $zak\bar{a}h$ from the ummah is necessary because of his saying, "Keep your $zak\bar{a}h$ collectors happy."

And by the saying of the Prophet , "If anyone among the Muslims asks for it in a rightful manner, then give it to him; but if anyone asks for more than that, then do not give it to him."²⁰

And if those in authority among the Muslims whom we are ordered to obey as in the Qur'ān, "Obey Allāh and obey the Messenger and those in authority among you" [An-Nisā': 59] ask about it, we are obliged to give it to them. Similarly the order of Allāh to fight the $mushrik\bar{n}$ till they give the jizyah, all of that is obligatory on the a'immah, collecting it and sending $su'\bar{a}t$ and $wul\bar{a}t$ to them.

As for the $khu\bar{s}u\bar{s}$ word of a naw' by which another naw' is meant with, this is a mistake and there is no path towards this, this is false, by nature and the $shar\bar{t}$ ah and the language.

As for the *sharī* 'ah it is the saying of Allāh, "Whoever disobeys Allāh and his Messenger, and transgresses his limits, he will enter him in a fire in which he will dwell eternally and for him is a humiliating punishment" [AnNisā': 14] and the limits of Allāh is what he prohibited, obliged and allowed,

¹⁷ Şaḥīḥ Muslim 573

¹⁸ Şaḥīḥ al-Bukhārī 628, 630, 631

¹⁹ Sahīh Muslim 989

²⁰ Sunan al-Kubrā by Al-Bayhaqī 7519, 4/226



whoever prohibits what Allah did not prohibit, obliges what he did not oblige has transgressed his limits.

As for nature, we necessarily know that names were assigned to express the meanings associated with them and named after them, not for what they were not associated with nor named after. This is something that no one's mind can perceive otherwise. Anything otherwise is safsatah, corruption of the world and the structure of the 'aql and senses.

As for language: We ask both the ignorant and the knowledgeable: "What is burr?" They will respond, "Wheat." If we then ask about sha 'īr, "What is this?" they will reply, "It is sha 'īr (barley)." If we were to say, "It is wheat," they would deny it and mock the one who claimed so. This is something upon which no one from the east or the west of the world would disagree. But when it comes to religion—where utmost caution and accuracy are obligatory—they judge barley the same as wheat, contradicting what they had agreed upon as the truth. They rule by what both we and they have established as falsehood. They overstepped boundaries and assigned names to things they do not signify. Success is granted only with the help of Allāh Almighty.

Section: On the Ways Names Are Transferred From Their Original Designations, So the Order Changes From Being Obligatory To Taking Various Forms—
From The Obligation Of Hastening To The Permissibility To Delay, From The Apparent To Ta'wīl, And From Generality To Specifying Some Aspects, And The Evidences Indicating That Names Have Been Transferred From Their Original Meanings To What We Have Mentioned

This is a topic rife with confusion and significant mistakes. If we were to say that it is the root (*aṣl*) of every mistake that occurred in seeking rulings, it wouldn't be far from the truth. So, with the praise and help of Allāh, we will speak in a manner that, Allāh willing, clarifies the issue entirely.

We say, with Allāh's help: Names transferred from their original meanings occur in four ways. Transferring the name away from part of its meaning, excluding some of it. This is a 'umūm (generalization) with specific exceptions, leaving the rest makhṣūṣ (restricted) to everything it applies to. An example is Allāh's statement, "Those to whom people said, 'Indeed, the people have gathered against you'" [Āl 'Imrān: 173] and other similar examples we mentioned.

The second way is changing the name entirely from its original designation in the language and applying it to something else. For example, Allāh transferring the name of the prayer $(sal\bar{a}h)$ from mere supplication $(du'\bar{a}')$ to specific movements of standing, bowing, prostrating, sitting, reciting, and reciting, none of which extend beyond their defined limits. Similarly, Allāh transferring the name of obligatory alms $(zak\bar{a}h)$ from

purification (tatahhur) from vices to giving a specified amount of wealth in a defined manner, not extending beyond that. And like Him transferring the name of disbelief (kufr) from mere covering (taghtiyah) to denial of Him, His Prophets, or anything confirmed by Allah and His Messenger, after knowing its truth then denying it. And like transferring an order from obligation to recommendation or permission, that also falls under this, because this is the allocation of the word which was designed to indicate obligation in a different meaning, It instead has another form that indicates that it is upon choice, such as moving an order from obliging the act to being able to delay it. It has become clear from what we have mentioned that transferring a command from obligation and immediacy to recommendation or delay is a single category, involving the transfer of a term from its apparent meaning to another. This category is called, in both speech and poetry, metaphor and allegory (isti'ārah and majāz). An example of this is Allāh's statement: "Taste this. You mighty, noble one" [Ad-Dukhān: 49].

The third is changing a statement about one thing to another, relying on the understanding of the listener, like His saying, "Ask the land where we were and the caravan we travelled with. We are certainly telling the truth" [Yūsuf: 82]. He only intended (asking) the people of the village and (asking) the people of the caravan (not asking the village and the caravan), so He placed the statement about the village and the caravan in place of the statement about their people. Another example for this is the verse, "Do not approach prayer while intoxicated until you are aware of what you say, nor in a state of *junub* — except as merely passing, until you have bathed. But if you are ill, on a journey, or have relieved yourselves, or been intimate with your wives and cannot find water, then purify yourselves with clean earth, wiping your faces and hands" [An-Nisa : 43] (This verse indicates the obligation of $wud\bar{u}$ for all prayers as Allāh said, "And cannot find water,") So the statement in the verse, "And if you are ill or on a travel" Allāh placed the statement of the travel and illness in the place of *hadath*, because the intended meaning is, "Then you do hadath." Another example is the verse, "That is a *kaffārah* for your oaths if you take an oath" [Al-Mā'idah: 89] Allāh placed the ruling (of kaffārah) on any oath. While this is only if the oath is broken or wanting to break it, not on any oath in general. And there are many examples for this.

The fourth way of changing a word from the state of being true and necessitating its meaning to rendering it invalid and forbidden. This is abrogation, such as Allāh's abrogation of the order to pray toward Jerusalem, changing it to another act making by that the one before entirely nullified and impermissible if done deliberately without necessity. We distinguish between abrogation and changing an order from obligation to recommendation or others, even though both of these are a change. This is because, in abrogation, the abrogated order was the act that was willed from us to act upon before it got abrogated. As for the obligations that are changed to recommendation, then Allāh never wanted us to act upon other than the changed (recommended) act (not the act we find it the way it is before a change of recommendation). This is a clear distinction. None of what we have mentioned must be transgressed beyond its assigned place. Because as you can see, these are anwā united by the jins of changing names from their designated ranks. Whoever permits (transgressing) one instance of this without evidence is obligated to permit all of them. This would result in the abrogation of every ruling and the inability to comprehend any word from Allāh or His Messenger, as it might have been changed to another meaning. This is a departure from Islām.

Now that we have mentioned the manners of changing names from their meanings and provided examples to indicate this and highlight other similar instances by Allāh's grace and power, we will now mention by the will of Allāh the evidences by which the validity of these are known, and by which we affirm that a name can be changed from some of its aspects as we mentioned. And that which whenever not found (other than these ways) it is not allowed for a Muslim to say, "This word is not upon that which it originally necessitates," and Allāh is the source of success.

So we say: Verily the certain evidences on the diverting which we mentioned splits into two types with no third to it: either *tabī* 'ah or *sharī* 'ah.

As for $tab\bar{t}$ ah it is that which the 'aql necessitates that a word is changed from its original place towards one of the categories of diversion we mentioned previously mentioned, such as the verse, "Those to whom people said, 'Indeed, the people have gathered against you'" [$\bar{A}l$ 'Imr $\bar{a}n$: 173]. It is established by necessity that 'the people' does not refer to all mankind on earth gathering in one place to convey this message. This is because the 'aql necessitates that those who informed them of the gathering are distinct from

those who gathered, and also distinct from those against whom they gathered. Likewise, those who gathered against them are separate from those who informed them of the gathering and from those who were the target of the gathering.

And such as the verse, "Be you stones or iron" [Al-Isrā': 50] we know by necessity of the 'aql that this is 'amr ta'jiz (a challenge to incapacitate) because no one is able to become stones or iron. If it were an 'amr takwīn (order of creation), they would have become that. Since reason finds that they did not become stones or iron, it is understood to be a challenge.

As for the $shar\bar{\imath}'ah$, it is that which has been established through the texts of the Qur'ān, the Sunnah, the actions of the Prophet \clubsuit , his acknowledgments, or $ijm\bar{a}$, in accordance with the categories of diversion we previously mentioned. For instance, $ijm\bar{a}$ has indicated that the term "father" in the verse: "And do not marry those women whom your fathers have married, except what has already passed" [An-Nisā': 22], is diverted/changed from solely referring to the immediate father and grandfathers (both paternal and maternal) to also include fathers through breastfeeding and grandfathers through breastfeeding. By the saying from of the Prophet \clubsuit , "What becomes prohibited (for marriage) through breastfeeding is that which becomes prohibited through lineage."

Just as a text has indicated the diversion of the name ab to mean 'amm in His statement about those who said: "We will worship your God and the God of your fathers—Ibrāhīm, Ismā'īl, and Isḥāq—the One God. And to Him we submit" [Al-Baqarah: 133], it is clear that Ismā'īl was only an uncle ('amm), not a father (ab). But this does not necessitate transferring the name 'ab' in inheritance to include the maternal grandfather in any way. Similarly, mutawātir transmissions have indicated the diversion of the name 'ibn' in the verse: "And the wives of your sons (abnā'ikum) who are from your loins" [An-Nisā': 23], from being restricted to 'ibn' (a biological son) and grandsons (through sons and daughters) to include sons through breastfeeding. But this does not necessitate transferring the name 'ibn' in inheritance to include sons through breastfeeding, and likewise grandsons through daughters. Sons through breastfeeding, and likewise grandsons through daughters, do not prevent the mother from inheriting one-third, nor do they prevent the husband from inheriting half, or the wife from inheriting one-fourth, one-sixth, or one-

²¹ Sahīh al-Bukhārī 2645

eighth. None of what has been mentioned obligates the diversion/change of the name 'umm' (mother), which refers to those who carried and gave birth to humans, to include mothers through breastfeeding in every ruling. This is because it is necessary knowledge ('ilm darūrī) that people passed away during the time of the Prophet #, and they had children through daughters, grandfathers from the maternal side, and relatives through breastfeeding, yet none of these inherited anything as per the consensus of transmission generation after generation. If the paternal grandfather is specified, along with the 'ibn' (biological son) and the mother from birth, in inheritance, it would not be permissible to extend this specification to include some mothers, some sons, or some grandfathers without evidence. For this reason, we assign inheritance to the paternal grandfather when no father is present, without including the brothers, because it is agreed upon that the grandfather inherits in such cases of farā'id. As for brothers, they are a matter of disagreement, and there is no nass concerning them. So it is obligatory that no one inherits without an explicit text or $ijm\bar{a}$, which applies to the brothers, while the grandfather is agreed upon to inherit in these specific shares, with an explicit text affirming his status as an 'ab'. It is necessary for those who believe in specification (khuṣūṣ) to exclude certain sons and grant them inheritance with other sons by $qiy\bar{a}s$ based on the $ijm\bar{a}$ that grandsons through daughters do not inherit, even though they are referred to as 'sons.' And also this does not prohibit the maternal grandfathers from marrying their halā il. Those who argue that the grandmother is compared to the mother regarding taḥrīm is implied to also apply this qiyās in inheritance (tawrīth), or else they are contradicting themselves. With Allāh lies all success.

So from what we mentioned it is established that taking out the names from their fixed places if the evidence is established, among the evidences we mentioned, is obligatory. Because it is taking in all of those cases from the apparent through additional $nus\bar{u}s$, none of that is outside the apparent, and it is obligatory when there is no evidence not to move anything from the $nus\bar{u}s$ away from its apparent in the language.

As for the one that specifies the apparent or the general with $qiy\bar{a}s$ or with $dal\bar{\imath}l$ ul- $khit\bar{\imath}ab$ or the saying of a companion, it is false and we will clarify that in their chapters, by the will of Allāh.

And Allāh said, "That you may make clear to the people what was sent down to them" [An-Naḥl: 44] So it becomes evident that clarification

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can only come through a text or through the necessity of 'aql, as we have previously mentioned. This is because the Messenger of Allāh $\stackrel{\text{\tiny{de}}}{=}$ recited the Qur'ān to us, and he is the one who clarifies it, ordering us to follow the Sunnah as a clarification for us. He is also the one who instructed us to follow the Qur'ān and the Sunnah. And also, he $\stackrel{\text{\tiny{de}}}{=}$ explicitly affirmed in the Qur'ān the obligation to use 'aql and sensory perception (hiss).

We have mentioned in the section on narrations in this book how $takh s \bar{t} s$ is made of verse by a verse and of narration by narration and for verse and narration by each other.

And from the specification ($takh s \bar{s} s$) by $ijm \bar{a}$, it is the statement of Allāh the Exalted, "Till they give the jizyah while they are humbled" [At-Tawbah: 29] so since the *ummah* has concurred without difference that if they would offer one fals amount or two fals that with that, protecting their blood would not be possible and it would not depart them from the obligation of fighting them. Even if those who speak of it are many and their virtue is widespread, it is not obligatory to transgress because of that saying, because there is no Our an or Sunnah for it. But when Allah said, "Till they give the jizyah," He said 'al-jizyah' with an alif and an lām which are both in the language in which the Qur'ān is revealed, for an 'ahd (something known) and ta'rīf (making well known). We know then that Allāh meant a jizyah that is known and accustomed, so He clarified with his saying, "The jizyah," with alif and $l\bar{a}m$ and the alif and $l\bar{a}m$ in the language of the Arabs does not occur except on what is ma'hūd (known), and it is established authentically, connected and from the Prophet as narrated by Al-Bayhaqī —» Abū al-Hasan 'Alī ibn 'Abd Allāh ibn Ibrāhīm al-Hāshimī —» Abū Ja'far Muhammad ibn 'Amr ibn al-Bakhtarī al-Razzāz —» Al-'Abbās ibn Muḥammad ibn Ḥātim al-Dūrī —» Yaʻlā ibn 'Ubayd —» Al-Aʻmash —» Shaqīq —» Masrūq, who said: "Mu'ādh said: 'The Messenger of Allāh # sent me to Yemen and ordered me to take from (ahl al-dhimmah) every adult (hālim) one dīnār or its equivalent in Ma 'āfirī cloth.""22

So the Prophet $\stackrel{\text{\tiny def}}{=}$ when he ordered taking one $d\bar{\imath}n\bar{a}r$ from every adult among them male or female, we know that anything that is less than one $d\bar{\imath}n\bar{a}r$ is not the jizyah which protects their blood and their property, and there was no fixed limit for the jizyah; it is not restricted by $ijm\bar{a}$ as Yaḥyā ibn Ādam,

²² Sunan Al-Kubrā by Al-Bayhaqī 7362, 8/59

'Aṭā' ibn Abī Rabāḥ, 'Amr ibn Dīnār, and Sufyān al-Thawrī all said, "There is no limit to the *jizyah*. It is only what they are pleased with."²³

So since the name jizyah can apply to one $d\bar{\imath}n\bar{a}r$, it is obligatory to accept it from those who cannot afford more. As for those who made a treaty (sulh), they are obligated to pay whatever amount they agreed upon, if it exceeds one $d\bar{\imath}n\bar{a}r$. For ahl al-'anwah (those conquered in war), it is obligatory to impose upon them what they are able to pay without causing undue hardship.

As for changing the order from an obligation to a recommendation, this cannot be done through the 'aql alone; it must be based on another text or *ijmā*', as we have mentioned regarding the verse, "And when you have completed your rites, then hunt!" [Al-Māʾidah: 2]. This verse (merely) permits what we have mentioned, based on the *ijmā* 'on it. We said regarding the *Witr* prayer that it is recommended because of the narration about the night of Isrā', "On the Night of Isrā', fifty prayers were made obligatory upon the Prophet . Then it was decreased until it was made five. Then it was called out (By Allāh), 'O Muḥammad! Indeed My Word does not change; these five prayers will be recorded for you as fifty."²⁴ and also because when the Prophet wanted to perform an obligatory prayer, he would dismount and perform it, and he would perform the voluntary prayer while riding the camel, and when he would want to pray the obligatory prayers he did it on his camel and would pray *witr* on his camel²⁵.

As for the Prophet's $\stackrel{\text{def}}{=}$ prohibition from eating two dates at the same time 26 . And the order to witness transactions of sales, writing debts, dispersing after the prayer to sleep, eat or seek sustenance, eating from the $had\bar{\iota}$ animal slaughtered and feeding others with it, and similarly from the sacrificial animals. And writing (an agreement for the freedom of the slave) if the slave seeks it and giving them from our property and others, these are all obligations and leaving them is a sin. Because there is no nass that takes these orders out from their obligation and also not $ijm\bar{a}$.

 $^{^{23}}$ Al-Muşannaf by 'Abd ar-Razzāq 6/85-91 | Al-Musnnaf by ibn Abī Shaybah 1/428-429

²⁴ Sunan al-Tirmidhī 213

²⁵ Sahīh al-Bukhārī 999, 1000, 1095, 1096, 1098

²⁶ Sahīh al-Bukhārī 2455



And as for Allāh's command to the people of Hell to enter it and be humiliated, this is an order of coercion ('amr idtirār), from which they have no escape. As for Allāh's order to the people of Paradise to eat, drink, and enjoy blessings, it is a real order of obligation that they must willingly and joyfully accept, just as the angels do in fulfilling what they are ordered. And with Allāh's help, success is granted.

Section: On the Text Of Which Some Is Specified, Is What Remains From It General or Not Upon Generality?

As for the text for which certain evidence is established that it's not upon generality, then a group of people said, "The remaining is upon generality."

Some of them such as ' $\bar{I}s\bar{a}$ ibn Abān al-Ḥanafī, the $q\bar{a}d\bar{\iota}$ of Baṣrah said, "We do not take from it except what is agreed upon."

What is correct regarding this is that from the nuṣūṣ, from which, if would leave it as it is and the apparent would not be understood, then we do not take from it except what other texts clarify or $ijm\bar{a}$.

Such as the order, "Establish the prayer and give the $zak\bar{a}h$ " [Al-Baqarah: 43] Allāh has stated to us the prayer and the $zak\bar{a}h$ in this verse with an *alif* and $l\bar{a}m$. And the *alif* and $l\bar{a}m$ do not occur on words except what is $ma'h\bar{u}d$. And from this apparent, the description of the prayer and the $zak\bar{a}h$ which are both obligatory on us are not understood. So it is obligatory to seek its description from other texts or $ijm\bar{a}'$. And Allāh told us that he does not burden a soul except if its within its capacity, and it is not in our capacity to understand facing the Ka'ba, bringing four $raka'\bar{a}t$ for zuhr and that in every rak'ah there are two sajdahs and that maghrib has three $raka'\bar{a}t$ all from the mere saying, "Establish the prayer" [Al-Baqarah: 43] and it is not in our capacity to understand giving a sheep for every five camels owned and what is obligatory from $zak\bar{a}h$ from cows and cattle from the verse, "And give the $zak\bar{a}h$ " [Al-Baqarah: 43].

And if He, the Exalted, had obliged us to drink the seawater in one gulp and then punished us if we did not do it, that would have been just and right in the 'aql. But He, the Exalted, has shown us grace and spared us from that, because He said that and that He does not burden us with what we cannot bear. So, to Him belongs all praise and thanks; there is no god but Him. And likewise, His saying, the Exalted, "Take from their property sadaqah by

which you purify them and increase them" [At-Tawbah: 103]. There is not in it clarification on the description of that sadagah and also not when it is taken, every day? Month? Or every year? Or once in a lifetime and also not the amount that must be taken, and also not which type of property, so in the verse, "From their property," there are two general matters, one of them is the property and the second is the noun which refers to those that have the property. As for the general property, it has been established through ijmā' transmitted generation after generation towards the Prophet ## that no zakāh is obligatory except on some specific property, not all, while the texts of the verse does oblige that, because Allāh only said, "Take from their property," the apparent necessitates that whatever is taken from what is less or much, that then property has been taken as it is ordered. And the saying of the Prophet $\stackrel{\text{\tiny{def}}}{=}$ when he was asked about the donkey whether $zak\bar{a}h$ is obligatory on it or not²⁷. And it was made known with these words in the verse that not all property is intended, the Prophet said, "Verily your property is for each other prohibited." The Prophet salso said, "Every Muslim against another Muslim, his blood, property and honor are prohibited."28 The Prophet stated that it is not allowed to take property of anyone except with their approval, and $zak\bar{a}h$ is not like that, they are instead fought if they do not give it. And also the wording in the verse 'from' in the verse, "Take from their property," only indicates tab īd (that it is some not all). If property the property intended would be general (everything), then that would be impossible because it would oblige taking every single seed, grain and every mustard seed and every mark, because all of that is property, and it is established that the Prophet did not take any of such things. So, as it has been established by all that we mentioned that Allah did not mean all property, it is obligatory to seek to know the property on which zakāh is obligatory, the amount to be taken from it, and when it is to be taken from another text or by $ijm\bar{a}$. For it has been established that what is taken is something from some of what they own, so that intended thing must be clarified, because for that order, if anything would be taken on which the word 'thing' applies from all of their property, then it has been taken from that property, fulfilling the obligation.

²⁷ Sahīh al-Bukhārī 2371, 2860, 3646

²⁸ Sahīh Muslim 2564 | Sunan al-Tirmidhī 1927

This also aligns with the apparent meaning and does not contradict it in any way. There is no other approach except this unless a nass or $ijm\bar{a}$ necessitates more, because the second approach—taking a portion from every type of wealth—is unfeasible. Since there are only two possibilities, and one has been ruled out, the other remains valid. If there were no $nus\bar{u}s$ or $ijm\bar{a}$ specifying the obligation of $zak\bar{a}h$ on livestock, gold, silver, wheat, barley, and dates, then only what qualifies as any 'taking' (in the Arabic language) would be necessary and valid. In such a case, giving a single grain of wheat, a barley seed, or anything else would suffice. But the $nus\bar{u}s$ and $ijm\bar{a}$ on the aforementioned oblige adherence to specific clarifying obligations.

As for the second generality, it refers to the general application to all property owners, and this is clear, meaning it applies to every individual who possesses property. It must be applied in its general sense once the amount to be taken, the time it is to be taken, and the type of property it is to be taken from are known. The only exception to this is what is excluded by a text or $ijm\bar{a}$, as we will explain later, by the will of Allāh.

As for the clarified text whose meaning is understood from its wording (alone), we apply it generally even if no other text or $ijm\bar{a}$ 'specifies some instances. Only what is excluded by text or $ijm\bar{a}$ 'is specified, and the argument supporting this is the evidence that we established for the general application in the first part of this section.

Those who say that nothing remains from the texts that have been specified with something remain upon generality except what is additionally indicated by text or $ijm\bar{a}$ 'that it is general are implied to allow the killing of everyone except those whose blood is unanimously agreed to be protected, because the Prophet \cong said, "Your blood and your property are sacred to you."

It is agreed that this statement is not entirely general, as exceptions have been made for cases such as adulterers, murderers, and others. According to their false a s l (method), they would also have to kill a consumer of intoxicants after the fourth offense (if no explicit text exists), and they would be obliged to follow the Ḥanafī or Shāfiʿī positions on killing a magician, or the Mālikī position on killing a master by his slave or a Muslim by a $k \bar{a} f i r$. Unless they contradict themselves, they must admit that what remains of generality of a text after some of it has been specified, remains valid and general unless specified otherwise by a text or $i j m \bar{a}$ `. By the will of

Allāh, we will now examine a case where successive specific exceptions serve as an example of how to apply what we have mentioned. And with Allāh's guidance, success is attained.

And that is that Allāh Almighty said, "It is He who created for you all of what is on the earth" [Al-Baqarah: 29].

There is no text more general or more comprehensive than this, permitting all women, (such as copulating them), foods, and everything on earth. This is the most general verse.

But then He (in a less general manner) said, "Tell the believing men to lower their gaze and guard their private part" [An-Nūr: 30].

There is no text after the previous text more general than this second one. If no other text existed other than these two, marriage and all forms of sexual intercourse would be entirely prohibited, and all women would be excluded (from being entirely permitted) from what the most general first text that permits.

And Allāh said, "Then marry women from your choice" [An-Nisā': 3].

This permits what the earlier text, which included the obligation of guarding the private parts would have prohibited, if this verse would not exist. If nothing other than these texts existed, it would be obligatory to take from the prohibition, because the prohibition is an additional order. Because the verse in which there is the permissibility of $nik\bar{a}h$ (the current verse) aligns with the general text permitting everything on earth ($ma'h\bar{u}d$ al-as1), the verse mentioned before and the current verse is then merely $ta'k\bar{t}d$ and $takr\bar{a}r$ of that previous one like other $takr\bar{a}r$ and $ta'k\bar{t}d$ in the Qur'ān that Allāh Almighty presented as He willed, "He is not questioned about what He does, but they will be questioned" [Al-Anbiyā': 23] just as He reiterated the stories of the prophets, so he repeated the permissibility of marrying woman as he wishes.

We do not claim that any of these texts came before the others, nor that some came after others—whether they were revealed at different times or simultaneously—there is no difference in our view. Nothing that was revealed afterward invalidates anything revealed earlier except by a text indicating that it has been invalidated, replaced by another ruling or by $ijm\bar{a}$. Otherwise, it is only added to each other and applied together without another way or making exceptions for the least meaning. Since what we have said is

established—namely, making exceptions to prohibit marriage entirely (by the obligation of guarding the private part) from the text in which Allāh has permitted us everything—we then find that Allah has made the permissibility of nikāḥ (marriage) an exception of the general obligation of guarding one's private parts by His saying, "And those who guard their private parts, except from their wives or what their right hand possesses, whoever seeks beyond that, then they are from the transgressors" [Al-Mu'minūn: 5-7]. So it is established that marriage and what the right hand possesses are made permissible as an exception from the larger prohibition of *ihmāl* of the private parts (going against obligation to guard it). Then this specification is taken in its generality (what remains), and further there are many other matters specified from the verse of prohibition, such as: Sisters-in-law by ownership or possession, Mothers and daughters by ownership or possession, Women from the People of the Book by ownership or possession, A menstruating woman, A woman in a state of ihrām, A woman fasting an obligatory fast, Women prohibited through kinship or breastfeeding.

It is also possible that nothing must made an exception from the verse that prohibits neglecting one's private parts entirely (the obligation of guarding them) except for what is established to be excluded as permissible by nass or $ijm\bar{a}$.

If we excluded as permissible from the naṣṣ which prohibits the neglect of private parts everything that could potentially be excluded as permissible, we would be discarding that which is certain and obligatory (prohibited) by doubts about permissibility. And if we only exclude as permissible (the least meaning possible) what is established by naṣṣ or certain $ijm\bar{a}$, then it is by what we are certain of what is permissible of intercourse, and we are then also certain of what is prohibited. Because using the verse allowing intercourse entirely, that is returning to the first aṣl in which everything in the world is permissible and abandoning what must be taken out as a specification by certainty. If we would do this we would be contradictory because they are three nuṣūṣ as you can see: A general naṣṣ, A less general naṣṣ, An even more specific exception.

If anyone says, "We take from the most specific nass."

We say, and Allāh is the source of strength: Verily, if you were to do that, you would return to our position, because we find no *naṣṣ* more specific than the one permitting intercourse. This obligates you to give precedence to

this most specific and established nass; otherwise, you contradict your own position, and that is the saying of Allāh, "Do not have $nik\bar{a}h$ (intercourse and marriage) with the $mushrik\bar{a}t$ till they believe" [Al-Baqarah: 221] and the $mushrik\bar{a}t$ they can be some from those our right hands can possess, such as two sisters if we possess them, or the mother and the daughter if we possess them (them being enslaved then is a more specific situation than the prohibition of $nik\bar{a}h$ with them when they are not enslaved as it is a situation above their state when they are not enslaved).

Some among our companions from the qayvāsiyyūn have contradicted regarding this severely and evidently because they go to the verse, "And do not have nikāh with the mushrikāt till they believe" till the saying of Allah, "And that you combine two sisters except for what has preceded" [An-Nisa: 23] and till the saying of Allah, "And the mothers of your wives" [An-Nisa: 23]. And this is as you can see verses that prohibit described women. But then they go to the verse, "Except for the wives, or what your right hand possesses, for they are not blamed" [Al-Mu'minūn: 6]. So they make an exception by allowing the two sisters if it is through slavery, and the mother and the daughter through slavery, and the paternal aunt and the daughter of the brother through slavery, the maternal aunt and the daughter of the maternal aunt through slavery. All through the verse that allows it through slavery. So they said, "Except if two sisters are together or a mother and a daughter or a paternal aunt and daughter of the brother, it is not allowed to have intercourse with them." Then they make an exception for the slave girls who are *kitābiyyāt* from that which they allow through slavery.

If someone would reverse these and allow the mother and the daughter through slavery but prohibits the *kitābiyyah* slave girl because of the verse, "Do not have *nikāḥ* with the *mushrikāt* till they believe" [Al-Baqarah: 221] then what is the difference between him and them except in claiming as desired.

If someone says, "(Copulating) the *kitabiyyāt* through slavery has been made permissible."

It is said to them, "You are mistaken, they are only made permissible through marriage because of the verse, "And [permissible in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you, when you have given them their due compensation (*mahr*)" [Al-Mā'idah: 5].

So the chaste women from the *kitabiyyāt* are only made permissible with the condition of giving them their compensation, and giving them their compensation does not happen except through marriage not through slavery, there is no doubt in this from anyone, so it becomes false for the permissibility of the slave girls mentioned to mean permissibility (of copulating them) without marriage. And with certainty that is upon the *aṣl* of prohibition.

If we would be pleased for ourselves for a *hujjah* in the similar manner they are pleased, we would have mentioned to them the saying of Allāh, "Do not have *nikāḥ* with the *mushrikāt* till they believe" [Al-Baqarah: 221]. He only intended here slave girls and the saying of Allāh, "A believing slave girl is better than a polytheist, even though she might please you" [Al-Baqarah: 221]. We would then tumult (like them) but stronger than what they used as evidence in most of their issues, such as them using as evidence for the obligation of *khuṭbah* (for *jumuʿah*) the verse, "And they left you standing" [Al-Jumuʿah: 11]. And such as their argument regarding freeing the brother that is a slave by the saying of Allāh, "I do not own except me and my brother" [Al-Māʾidah: 25]. And like their argument about the prohibition of blowing during the prayer because of the verse, "Do not say to them '*uff*'" [Al-Isrāʾ: 23]. And like their argument about the *qasāmah* because of the verses about the cow of Banū Isrāʿīl and such false *tamwīh*.

But Allāh Almighty has enriched us with the clear texts that leave no room for ta ' $w\bar{\imath}l$ and with His support for us, we do not need to contrive false paths or claim what is incorrect. Those who have swords do not need to fight with chaff, especially those among them who say that if part of the text is specified, then the remaining is not taken except what has $ijm\bar{a}$ '.

Then it is said to him at this place: From the permissibility of owning what the right hand possesses, many things have been excluded from it by text and $ijm\bar{a}$ as prohibited, such as intercourse with males, animals, mothers by breastfeeding, sisters by breastfeeding, and all that is forbidden by marriage and breastfeeding, and every menstruating woman, and every woman observing an obligatory fast. You have excluded from it the two sisters, the mother, the daughter, the paternal aunt, and the maternal aunt, so you are implied not to permit from what remains except what is agreed upon, and there is no agreement on the permissibility of (copulating) a $kit\bar{a}biyyah$ woman through slavery, nor is there a text for it. So, you are implied to say it is prohibited.

And it is said to the rest of them: You are people of qiyās so make a qiyās between what we differed on regarding intercourse with a kitābiyyah slave owned by the right hand (slavery) and what we agreed upon regarding the prohibition of two sisters owned by the right hand and all that we mentioned.

And it is said to the Mālikīs among them: You introduce prohibition for the slightest reason and do not introduce permissibility except with the clearest reason, so prohibit intercourse with a kitābiyyah slave woman owned by the right hand, as you have no reason to permit it, neither slight nor significant. But you have the clearest reason to prohibit it, for if they claim ijmā', ibn 'Umar contradicts them, as it is authentically narrated from him that he forbade kitābiyyāt altogether and recited the verse we mentioned.

As for the majority of our zāhirī companions, they followed their method of leaving what appears to be contradicting, which we have clarified the falsehood thereof. So they made His saying, the Most High, "And that you combine two sisters at the same time, except for what has already passed" [An-Nisā': 23]. And, "And the mothers of your wives" [An-Nisā': 23]. And, "And do not have *nikāh* with the *mushrikāt* till they believe" [Al-Baqarah: 221]. They saw these contradicting to the verse, "Except what your right hand possesses" [An-Nisa : 24] because of that they returned to the asl of permissibility.

And this is a severe mistake from every perspective. Even if there were a contradiction and their method would be correct, it would still be false here. Then how when there is no contradiction, as stated in the verse of Allāh, "If it would have been from other than Allah, they would have found in it many contradictions" [An-Nisā': 82]. And the verse, "He has clarified to you what is prohibited for you, except what you are coerced into" [Al-An ām: 119], and their method is corrupt due to neglecting what has been established with certainty about the obligation of obedience to it.

Even if the mentioned method would be valid, then the return would be to the verse of Allah, "Say to the believers that they must lower their gaze and guard their private parts" [An-Nūr: 30] as a general prohibition of all woman in all case rather than to a permissibility from which guarding of private parts would be specified.

But the correct position is what we have clarified about making exception of the lesser meaning from the larger. And it is from the pinnacle of astonishments how they prohibited intercourse with the idolatress (non-kitābiyyah) slave woman by ownership of the right hand (slavery) without any disagreement among them because of the verse of Allāh, "And do not have nikāḥ with the mushrikāt women until they believe" [Al-Baqarah: 221] then they allow intercourse with the kitābiyyah slave through slavery without evidence from texts ever, no narration ever indicates it and also no ijmā '. So they specified the verse, "Do not have nikāḥ with the mushrikāt women till they believe," without any evidence and made a difference between the kitābiyyah slave and the idolatress without evidence.

If they say, "The verse of Allāh, 'Do not have $nik\bar{a}h$ with the $mushrik\bar{a}t$,' only means do not marry them."

They are mistaken for two reasons: one is making a specification of the general ruling without evidence as nikāh means both intercourse and marriage non-metaphorically, and the second is their contradiction as they prohibit idolatress (non-kitābiyyah) slave women by slavery using that verse, while the text with the permissibility only came for the kitabiyyāt women through marriage only not for copulating through slavery. So it is prohibited to exclude as permissible from the prohibition of mushrikāt in general anything other than marriage alone which is the only exception by text. Especially since they invalidate qiyās, they only permitted slave women by right hand based on a qiyās with free women in marriage, and qiyās is false. So they have nothing else than to say 'mushrikāt' is a word that does not apply to the kitabiyyāt. If they say this, and if the speaker is a Mālikī or Shāfi'ī, it is a contradiction, because they applied the verse of Allāh, "Indeed the mushrikīn are impure, so let them not approach masjid ul-ḥarām after this year" [At-Tawbah: 28]. They understood this verse upon the kitābī just as they understood it upon the wathanī.

And if the speaker is a Ḥanafī, he contradicts as well as they believe the verse, "Then kill the $mushrik\bar{\imath}n$ wherever you find" [At-Tawbah: 5] to apply both on the $kit\bar{a}b\bar{\imath}$ and the $wathan\bar{\imath}$.

The evidence for this is their acceptance of their Islām if they convert, and there is nothing in the verse about fighting the People of the Scripture instead of *mushrikīn* in general except, "Until they give the *jizyah* willingly while they are humbled" [At-Tawbah: 29] only. And Allāh grants success.

And among the arguments used by 'Isā ibn Abān al-Ḥanafī for his statement, "If a text has an exception, the rest must be considered as specific,"

is that he says, "This is like those that are witnessed sin, ruling *jarh* on them, then there must be tawaqquf from their remaining testimonies in everything."

This saying, with all its inconsistencies and its comparison to something that does not resemble it, is a great audacity against Allah, the Exalted, and His Messenger. Even if qiyās would be valid, which Allāh has protected us from, this $qiy\bar{a}s$ would be the most foolish $qiy\bar{a}s$ on earth. Then how when all of $qiy\bar{a}s$ is false. What is that what made you compare the words of Allāh and His Messenger, which Allāh has ordered us to revere and obey and forbidden us to disobey, with the words of sinners whose jarh has been established and whose narrations, we are ordered by Allāh not to accept? The one who says this false statement has likened the highest example of Allāh and His Messenger to the worst examples.

Why did he not say, since Allah did not guide him to accept the truth, "The text which has some parts specified is like two upright witnesses who testified for their father but their testimony was not accepted due to his corrupt madhab, which does not necessitate rejecting their testimony in all other matters?" (Their testimony is in general accepted except in that situation because of additional evidence). This *qiyās* is more accurate than his, and this is if qiyās would be valid. How, then, when all qiyās is entirely false and invalid? But what we taught them is more appropriate because we are ordered to accept the testimony of two upright witnesses just as we are ordered to accept the texts from Allāh and His Messenger and to act upon them. So if it is invalidated for us to accept some of their testimony due to evidence established for it in some cases, this does not necessitate rejecting all their other testimonies in other cases. Likewise, the obligatory text for us to accept, if there is evidence established that invalidates part of it in some cases, that does not necessitate rejecting the remaining of it. This is more similar than what he said because the *jarh* invalidates 'adālah entirely, and specifying a text that does not invalidate acting altogether. Had he compared the ruling of the witness who has *jarh* after he had once 'adālah to the abrogated rulings, making this a reason to reject all rulings entirely, it would have been more accurate in deception and subtle in its qiyās. But they, with their adherence to qiyās and their abandonment of the words of Allāh and His Messenger are the most ignorant of people in arranging their falsehood and the most confused in it. Such is anything that comes from other than Allāh. All praise is due to Allāh for what He has guided with His grace.

'Īsā ibn Abān al-Hanafī forgot himself when he said what we mentioned, that if part of a text is specified, the remaining must only be taken in what is agreed upon. Why did he not remember this principle when the Prophet said regarding his prohibition of killing the women, that because of that the female apostate is not killed. This text (the prohibition of killing women), from it the female fornicator is specified out as permissible and also the female that kills. Then why does he not invalidate from it the female apostate and does not take from it except what had been agreed upon from the prohibition of killing from the imprisoned harbiyyāt. But these people only assist the issues that are in front of them, they do not care about their asl (method) as they invalidate their principles by using anything they desire to save their furū 'and also do not care what they use as evidence and they do not have shame from its contradiction being evident instantly, and the contradicting method itself invalidating it. All of that is obedience towards Mālik, Abū Ḥanīfah, Abū Yūsuf, Muḥammad ibn al-Ḥasan and less care about its opposition to the Qur'an and abandoning the words of the Prophet and in Allāh we seek aid from being misguided.

And there is no difference between specifying a part of a verse or narration, where there is no *takhṣīṣ* (specification) for that part itself but because of the reason that another part of it had been specified, and one who intends thereby to specify every single verse and every single narration because of the reason that he found some verses and narrations to be specified. All of this is claiming as desired without certain decisive evidence or with corrupt evidence. This invalidates the *sharīʿah* (all rulings) and whoever permits and approves of what we mentioned is implied to say that every single verse is abrogated because some verses are abrogated. This is invalidation of Islām.

They are asked: What is the difference between you and one who specifies an entire $S\bar{u}rah$ or says that everything in it is abrogated because he found some of it abrogated and specified? This is something they do not say, yet it is the exact consequence of their corrupt method.

Some who follow this method argued, "If someone takes an oath that a verse or a narration is specified because evidence has established the specification of a part of them, he would not have violated his oath."

He is told: You have spoken the truth. Who disputes with you in this till you compel him? We acknowledge with you that a text is specified if

evidence has established the specification of a part of it. But the remaining part after the specification is taken according to its apparent meaning and everything implied by its wording after the exception is made. We adhere to the obligation of obedience to it. Whoever makes this claim is implied to say that whenever an amount is found from which something has been excluded, it is necessary to discard the entire number. And whenever a person is found from whom some property must be taken, it is not prevented from taking the rest unless *ijmā* 'prevents it. Whoever says this must also apply it to the words of Allāh the Almighty, "And he remained among them a thousand years minus fifty years" [Al-'Ankabūt: 14]. He would have to say, "Perhaps another fifty years were also excluded, making his stay among them only nine hundred years or less." This is corruption of the 'agl and exit from Islām.

If someone says, "Al-Zubayr and 'Abd al-Rahmān were permitted to wear silk because of an itch they had,²⁹ and you say this permission applies generally to anyone in a similar condition."

He is told the words of Allah the Almighty, "He has explained in detail to you what He has forbidden you, excepting that to which you are compelled?" [Al-An'ām: 119]. So, anyone compelled by necessity to forbidden things is permitted to them. This narration, which permits silk for 'Abd al-Rahmān and al-Zubayr, is some of the mentioned verse, just like a faqīh who heard that the oath is upon the defendant and because of that (as it is general) he required an oath from Zaid, 'Amr, and Khālid because they are also defendants. All of these fall under the purview of the mentioned narration.

If someone says, "Why do you not generalize the verse you mentioned, 'He has explained in detail to you what He has forbidden you, excepting that to which you are compelled' and have prohibited the baghī from eating carrion (maitah) if he is compelled into it?"

He is answered, with Allāh's guidance: We have prohibited it for two reasons.

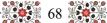
Firstly, the $b\bar{a}gh\bar{t}$ is excluded from the general category of the compelled (mudtar), as we have stated that the lesser meanings must be excluded from larger general meanings.

Secondly, the $b\bar{a}gh\bar{\iota}$ is not compelled (*mudtar*) because, if he were to abandon his rebellion, his necessity would be removed. So his condition is

²⁹ Sahīh al-Bukhārī 2919, 2920, 5839

self-chosen, and he is not in state of being compelled to eat carrion. If he wished to abandon his rebellion $(bagh\bar{\imath})$, he would have the ability to do so, and at that point, carrion (maitah) would become permissible for him only if he were in a state of necessity.

The compelled (mudtar) individual is only one who cannot remove their state of necessity $(dar\bar{u}rah)$. As for the one who pursues rebellion, fortifies himself in a stronghold, and persists in $bagh\bar{\iota}$, he is willingly choosing his state of inaction. So he is not compelled and is not included among those for whom carrion is permitted. With Allāh's guidance: He is sufficient for us, and He is the best disposer of affairs.



Section: Issues From 'Umūm and Khusūs

And from the contradiction of those who speak of takhṣīṣ of the nuṣūṣ with qiyās is that they use the generality of the verse, "And those who are taken in death among you and leave wives behind - they, [the wives, must] wait four months and ten [days]" [Al-Bagarah: 234]. Then they say, "The copulated wife and the non-copulated wife are the same," but they do not use *qiyās* from the non-copulated wife regarding passing away to the non-copulated wife regarding talāq, just as some made qiyās from ihdād (preventing the mu taddah from zīnah) on the woman divorced thrice to iḥdād on the wife from whom the husband passes away. If *qiyās* would be the truth, they are implied to use it in all ambiguous matters, and if it is false, let them avoid it.

Among the matters specified $(makh s \bar{u} s)$ by $ijm \bar{a}$ is the saying of Allāh Almighty, "Allāh instructs (obliges, wasī is an obligatory instruction) you concerning your children: for the male, what is equal to the share of two females" [An-Nisa": 11]. The Sunnah has excluded the slave from inheritance, that he does not inherit, and the Sunnah also specified that an infidel does not inherit from a Muslim, nor does a Muslim inherit from an infidel³⁰.

And Allāh Almighty said, "And there is no blame upon you for that in which you have erred but [only for] what your hearts intended" [Al-Ahzāb: 5]. And the Prophet said, "Mistake and forgetfulness is from my ummah uplifted."³¹ Then the book specified the one that kills by accident, that he is still obliged the kaffārah and the ijmā' conveyed that whoever has hadath even while forgetful, that he breaks the $wud\bar{u}$ '.

A group of people have claimed that the *hadd* on the male slave is specific based on *qiyās* of the female slave. They have lied; rather, the text has stated that the *hadd* of a male slave is different from the punishment of a

³⁰ Sahīh al-Bukhārī 1588, 3058

³¹ Sunan al-Nasā'ī 3433, 6/156

free person in the narration about the blood money of a *mukātab* slave narrated by 'Alī and Ibn 'Abbās about the Prophet ..."

They also said regarding the verse of Allāh Almighty: "Then when they fall down on their sides [after sacrifice], eat from them" [Al-Ḥajj: 36]. They claimed: "What is excluded from this (as not obligatory to eat from) is the compensatory sacrifice ($had\bar{\iota}$ al- $jaz\bar{a}$) for hunting during $ihr\bar{a}m$, as it is not permissible to eat from it by $ijm\bar{a}$. The (obligatory) sacrificial animal ($had\bar{\iota}$) for tamattu during hajj is then analogized ($qiy\bar{a}s$) to it (and then also not obligatory)."

This claim is false. Allah ordered eating only from voluntary sacrifices (tatawwu), provided the animal did not die before reaching its designated place (the haram). But regarding every obligatory hadī, Allāh said: "Do not consume your wealth among yourselves unjustly, except if it is through trade by mutual consent" [An-Nisā: 29]. Since these obligatory sacrifices are taken from our wealth, our ownership over them is invalidated. They have either transferred to the ownership of the poor or to Allah, the Almighty; it must be one of these two cases. Whatever exits our ownership cannot be disposed of (or consumed) except by explicit permission from a naṣṣ or by $ijm\bar{a}$. It is astonishing that they understand Allāh's order to eat from the sacrifices and to feed others as non-obligatory. Then, they sought to exclude certain cases through qiyas based on a qiyas that does not align with their intended comparison—namely, analogizing the hadī of tamattu 'to the compensatory sacrifice (hadī al-jazā'). If they had truly made qiyās from the hadī of tamattu 'to the compensatory sacrifice, then why did they not also use qiyās from the fasting for compensation (siyām al-jazā') to the fasting for tamattu '? And this is only a minor example of their inconsistency. And also there is no $ijm\bar{a}$ on the prohibition of eating from the recompense of hunting, it is narrated from some of the $t\bar{a}bi$ ' $\bar{i}n$ that they allowed eating from it³².

And some of them say: "How can you abandon the apparent meaning of the Qur' \bar{a} n, which, if someone denies or doubts it, they become a disbeliever ($k\bar{a}fir$), in favor of a *khabar al-wāḥid*? And yet you do not declare as disbelievers those who oppose you in this, nor do you deem them sinners?"

We respond to them, with the guidance of Allāh: The definitive obligation to comply with both (the Qurʿān and the *ḥadīth*) is the same, based

³² Al-Insāf 3/380

on the evidence we have mentioned in the chapter on the obligation to act upon a khabar al-wāḥid in this book. Both are revelations from Allāh, the Almighty. Determining the intended meaning from both in their unseen aspects is done according to their apparent meanings.

Only one who denies the revelation of the Qur'an, or a part of it is deemed a disbeliever. But as for someone who denies acting upon its apparent meaning and understands its verses with a ta wīl that does not deviate from the $ijm\bar{a}$, we do not declare them a disbeliever unless the hujjah is conclusively established against them and they understand it. Similarly, we do not deem someone who opposes us in accepting a khabar al-wāḥid as a disbeliever unless the *hujjah* is established against them and they understand it. Both matters are equivalent.

And if someone were to say, "I do not accept what the Messenger of Allāh said," they would be an infidel and a polytheist, just as one who denies or doubts the Qur'an would be, with no distinction between the two. And with Allāh's guidance is success.

Section: About The 'Umūm

When it is narrated that the Messenger of Allāh performed a certain action, we examine it. If it involves violating honor, shedding blood, or seizing wealth, we understand that it is an obligatory act. This is because the Prophet prohibited blood, wealth, and honor entirely, except by right. So whatever he took in these matters, we know it was obligatory to take and that it constitutes an exception to the general prohibition. This includes the flogging of the drunkard and his intention to burn the houses of those who neglected prayer. He only intends actions for rightful obligations, and if those intentions persisted, he would have carried them out against the individuals in question. It is not permissible for anyone to assume otherwise. Whoever claims that the Prophet issues threats without intending to act upon them has attributed lying to him. And whoever attributes such a thing to him is a $k\bar{a}fir$. An example of this is the ruling by oath alongside two witnesses, and there are many similar examples.

Section: The 'Umūm

The 'umūm (general) is of two types: mufassar and mujmal. The mujmal is that whose meaning is not understood from its apparent wording, or it can have two or more ways to fulfill what is in its meaning, but it is not clear which meaning is meant. As for the mufassar/mubayyan, it is the opposite of that, clarifying the exact intent.

As for the mujmal, its intended meaning must be sought from one of two sources: either from another text or from certain decisive $ijm\bar{a}$. When we find the clarification for such (mujmal) words in another naṣṣ, we take from it, regardless of who opposes us—whether they are many or few, prominent or insignificant. We are neither disheartened by their opposition nor overly confident due to those who agree with us, whether they are from the predecessors or recent, few or many.

It is not the case that those who are with Allāh and His Messenger are ever in a state of scarcity, humiliation, isolation, or in need of numerous followers to be valid.

If no *mubayyan* (clarifying) *naṣṣ* is found for the *mujmal* then acting upon anything what all the mere meanings of the word necessitates in the language is sufficient as we said before. For instance, if I told you, "Give a child one thousand riyals," and you gave it to a young child, an older child, an intelligent one, a less intelligent one, a tall child, a short child, or any individual who can be referred to as a child, it suffices to give it to any of them.

Some people have said, "If the matter is about amounts/numbers such as obligations that must be paid, if there is no text clarifying it, then we first look into $ijm\bar{a}$ " of the people and we take from their sayings the least amount, because the least amount mentioned among them encompasses everything they differed on."

This is false as $ijm\bar{a}$ is false except what necessitates certainty about the acknowledgment of the Prophet $\stackrel{\text{def}}{=}$, everything other than that, then no

matter how many people agree, is not an $ijm\bar{a}$, nor is it from the religion of Allāh as we will clarify in its chapter, by the will of Allāh.

We will now provide examples to further clarify this matter for the seeker of knowledge. For instance, Allāh says:

Verily that is like the verse, "Till they give the *jizyah* willingly while they are humbled" [At-Tawbah: 29].

And the verse, "A compensation (*diyah*) to be given to the deceased's family" [An-Nisā': 92].

And the verse, "A ransom of fasting [three days] or charity or sacrifice" [Al-Baqarah: 196].

And the verse, "Then let him feed sixty poor people" [Al-Mujādilah: 4].

And the verse, "Take from their property *ṣadaqah* (*zakāh*)" [At-Tawbah: 103].

And the verse, "And give them *matā*" [Al-Baqarah: 236].

And the verse, "Make a contract with them if you know there is within them goodness" [An-Nūr: 33].

And the verse, "Or an expiation: the feeding of needy people or the equivalent of that in fasting" [Al-Mā'idah: 95].

And the saying of the Prophet \approx , "There is no owner of camels who does not give their due right, nor any owner of cattle who does not give their due right, nor any owner of silver or gold who does not give their due right, except that on the Day of Resurrection such-and-such will be done to him." And there have come $nus\bar{u}s$ with the obligation of spending on the wives, close relatives and slaves.

As for the verse, "Till they give the *jizyah* willingly while they are humbled" [At-Tawbah: 29]. This is a ruling about the *mushrikīn*, Allāh has ordered us to fight them, imprison their women and children and he obliged all of that upon us, and it is established by the *naṣṣ* mentioned before the obligation of one $d\bar{\imath}n\bar{a}r$ (upon them). So it is affirmed that if they pay less than one $d\bar{\imath}n\bar{a}r$ that they are not protected. And one $d\bar{\imath}n\bar{a}r$ was the minimum amount that any scholar has stated must be accepted as *jizyah* based on the *naṣṣ*. And there is no *naṣṣ* specifying a maximum amount or upper limit for *jizyah* such that one could assert, "This is the maximum amount required." If no clear limit would be established, their agreement of protection (*'aqd*

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³³ Sahīh Muslim 988

dhimmah) would never be finalized, as they would always be obliged to pay more than what they offered, without any end to it. This leads to endless demands. And one person who imposes a specific limit is no better than another who imposes a different limit. This renders the matter entirely inconsistent. So it is evident that the initial limit explicitly mentioned in the $nu\bar{s}\bar{u}\bar{s}$ —one $d\bar{u}n\bar{a}r$ —is what must be accepted. If they offer it and are unable to give more, it is sufficient, as there is not in the $na\bar{s}\bar{s}$ obliging more than one $d\bar{u}n\bar{a}r$ from anyone from those capable of paying more. And with Allāh lies success.

As for $zak\bar{a}h$ taken from cows, we have previously mentioned the narration from Muʻādh about the Prophet $\mbox{\ensuremath{\#}}$, and Masrūq has met him, attended his judgments, witnessed him, there is no doubt in this. And the act of Muʻādh, collecting $zak\bar{a}h$ on the cows was not rare nor hidden. It was instead a widespread act, evident, announced, repeated every year often³⁴. This is the utmost authenticity of a narration which obliges action and knowledge. The same way his action and his transmission of the jizyah, so it is established that $zak\bar{a}h$ on the cows and jizyah are two musnad authentic narrations about the Prophet $\mbox{\ensuremath{\#}}$ from the $tar\bar{t}q$ of Muʻādh.

As for the amount of *jizyah* we mentioned earlier, it is necessary except if they agree with us by their own choice to pay more, or they come under our rule without a pact, in which case they are obligated to pay what they are able. By this, their lives and their captivity are protected (from harm).

As for obliging humility on them, then verily the text has come with its obligation towards them, so everything that is called humility ($sagh\bar{a}r$) in Arabic, it is obligatory on them to do it, except what text or $ijm\bar{a}$ 'prohibit. So that is why we fight them, ending the agreement if they ride a horse, hold weapons, or use the kunyah of the Muslims or imitate them or enslave a Muslim or insult a Muslim. Because the words are general and it is obligatory to take from all of it, everything the word necessitates. This is in contrast to what has been prescribed for the treatment of Muslims with one another. Texts have prohibited the shedding of each other's blood, the violation of property, and the dishonoring of one another, as well as causing harm. It has been made obligatory to uphold the $kar\bar{a}mah$ (dignity) of every Muslim, and the prohibitions of $tah\bar{a}sud$ (envy), $tan\bar{a}zu$ '(disputing), and haqr (contempt) of any Muslim have been established. Mercy and ta ' $\bar{a}tuf$ (compassion) are

³⁴ Sunan Al-Tirmidhī 623

obligations. This stands in contrast to what has been ordered concerning the *mushrikīn*. So the wealth, honor, blood, and safety of a Muslim are inviolable, except in cases specifically permitted by authentic texts that establish their obligation. This is why we say regarding the *diyah* (blood money) taken from Muslims, that it is according to *aqallu* $m\bar{a}$ $q\bar{\imath}l$.

As for *ahl ul-dhimmah* killing each other by accident, there is no *diyah* and no *kaffārah* obligatory in that between them, no text obliged it so there is no amount that is obligatory on any of them.

As for the verse, "A ransom of fasting [three days] or charity or sacrifice" [Al-Baqarah: 196]. The Prophet "clearly clarified it."

As for the verse, "Then let him feed sixty poor people" [Al-Mujādilah: 4]. As for the amount of feeding (it $\bar{a}m$) that is obligatory, it is the feeding that makes them full ($ishb\bar{a}$) as necessitated in the language, and that is anything other than being in the state of hunger³⁵, as for the type of food, it does not matter, anything suffices. The Prophet gave dates to the one that copulated the wife during the daytimes of Ramaḍān³⁶. The same applies for the $kaff\bar{a}rah$ of $zih\bar{a}r$, all of it goes in accordance with the texts only.

As for the verse, "Take from their property sadaqah ($zak\bar{a}h$)" [At-Tawbah: 103]. The clarification for this is in the texts and we abandon what has not come in the texts about property, we do not take anything from it because of what we mentioned about the prohibition obliging what is not obligatory and the prohibition of taking the property of a Muslim without his approval so it is prohibited to take the property of a Muslim except with texts or $ijm\bar{a}$, because the verse, "Take from their property sadaqah, by which you purify them and increase them." This is an exception made as permissible from the general prohibition from taking the property from the Muslims, the most general does not cease to be applied except what has come as lesser in meanings by texts or $ijm\bar{a}$.

As for the verse, "And give them $mat\bar{a}$ " [Al-Baqarah: 236]. We only take for the amount of mut ah for the divorced what the Qur \bar{a} n and Sunnah obliged based on $istish\bar{a}b$ of what we have said from the prohibition of the property of Muslims in general, whatever is specifically made obligatory or permissible on property is specific, and everything other than that remains prohibited because of the general prohibition of the property of the Muslims

³⁵ Tāj al- 'Arūs 26/432

³⁶ Sunan al-Tirmidhī 724

ruled by the Prophet . As for the ruling of giving *mut ah* to the wife. Allāh said, "Let them live where you live during their waiting period, according to your means. And do not harass them to make their stay unbearable. If they are pregnant, then maintain them until they deliver" [Aṭ-Ṭalāq: 6]

And Allāh said, "There is no blame upon you if you divorce women you have not touched1 nor specified for them an obligation. But give them [a gift of] compensation - the wealthy according to his capability and the poor according to his capability - a provision according to what is acceptable, a duty upon the doers of good" [Al-Baqarah: 236].

And Allāh said, "Reasonable provisions must be made for divorced women—an obligation on the righteous (any Muslim)" [Al-Baqarah: 241]

The wife after she is divorced till the 'iddah is over, spending on her is an obligation, and the obligation is mut'ah as in the verses and mut'ah is derived from matā 'and matā '(enjoyment) in the language is everything from which one derives enjoyment, encompassing everything that is needed and necessary, and what a person benefits from in their necessities. If this is done the obligation is fulfilled.

As for the verse, "Make a contract with them if you know there is within them goodness" [An-Nūr: 33]. We do not compel the master of a slave to accept less than the value of the contract for manumission of the *mukātab* slave, nor do we compel the slave to pay more than he is able to, due to the consensus of those who affirm its obligation — and they are the people of truth — on the obligation of the amount we have mentioned. *Kitābah* is valid for any property that is valid to own.

As for the verse, "Or an expiation: the feeding of needy people or the equivalent of that in fasting" [Al-Mā'idah: 95], we take only what the apparent meaning of the verse necessitates, as clarified previously. This is because the foundational principle (a s l), as we mentioned, is the prohibition of taking the property of Muslims entirely, and that it is not permissible for anyone to oblige $shar\bar{\iota}'ah$ (rulings)—whether fasting or anything else—except through texts obliging it.

As for the saying of the Prophet *, "There is no owner of camels, no owner of sheep, no owner of cattle, and no owner of gold," we only take from the texts for the amount of camels, sheep, and cattle which are obligatory to be taken and the due right from them. So we oblige the milking of them one day and returning it as an obligation.

As for $zak\bar{a}h$ on gold, some people have claimed there is no authentic narration on the amount of gold that is obligatory from $zak\bar{a}h$. So we have looked into the matter and have found the most authentic narration (which is authentic) of the Prophet \cong obliged when eighty-five grammes of gold is owned for a year, that two point one two five grammes are obligatory³⁷.

This narration is authentic, it is not allowed to claim it was a mistake of 'Aṣim ibn Damrah or other *thiqāt* without certain decisive evidence, everything presented by those that oppose is a mere assumption. And we have clarified before in the chapters about narrations the situations in which we affirm a mistake of a narrator, anything other than that is a mere assumption which does not affect the narrator nor the narration.

And also 'Aṣim ibn Damrah is a *thiqah* not weak. Those that declared 'Aṣim weak are al-Juzajānī, who claimed that he opposed the *ummah* by narrating that for twenty-five camels five sheep are obligatory for *zakāh*. While the authentic narrations oblige for twenty-five camels one two-year-old *bint makhāḍ* from the female camels, and if there is not female then a three-year-old male *ibn labūn* camel. It is possible that the source for that narration is from other than 'Āṣim ibn Damrah, it is not allowed to assume this of a *thiqah*. And another narration used by al-Juzajānī to weaken 'Āṣim is the narration about the voluntary deeds, he only declared him weak by this narration and used as reason that it is not known that the Ṣaḥābah acted upon it, this is as you can see falsehood, nor is there a reason between a voluntary act that is done often or less often.

Ibn Ḥajar said, "The ta'aṣṣub of al-Juzajānī is against the companions of 'Alī ('Āṣim being one of them) is well known. And there is no objection to what 'Āṣim narrated. 'Ā'ishah, is the most intimate of the Prophet's "wives, and would say to someone asking her about something regarding the Prophet ", 'Ask 'Alī.' So there should be no surprise when a Companion narrates something that another Companion narrates differently from him, especially in voluntary acts. As for the hadīth of the sheep, perhaps the error in it is from those who came after 'Āṣim."

³⁷ Sunan Abī Dāwūd 1573

³⁸ Tahdhīb al-Tahdhīb 2/253

As for the *taḍ ʿīf* of ibn Ḥibbān, he merely weakened him because he narrated often from 'Alī about the Prophet ﷺ, this is an invalid reason, it does not harm the narrator³⁹.

The same applies for ibn 'Adī, he made *tad* 'īf merely for *tafarrud* which is an invalid reason as we clarified in the chapter about narrations.

And as for the *taḍ ʿīf* of Abū Dāwūd al-Sijistānī⁴⁰, it is not mufassar.

As there is no jarh of him that takes ' \bar{A} sim out the state of reliability it is obligatory to take from his narrations as he is declared a *thiqah* by 'Alī ibn al-Madīnī and Ahmad ibn Ḥanbal⁴¹.

And as for gold jewelry, the *ummah* has unanimously concurred on the obligation of $zak\bar{a}h$ on gold before it is crafted into jewelry if it reaches the mentioned amount. Then, they differed on its invalidation (of the obligation) if it is crafted. We have maintained the original state on which there was $ijm\bar{a}$ and did not dismiss the obligation due to differences when certainty and $ijm\bar{a}$ have established it.

As for the obligatory expenditures (nafaqāt), Allāh has obliged them in a reasonable manner and ordered us to do good in that. This entails providing food (with satiety as we have mentioned before), shelter, sufficiency, and clothing the 'awrah that are not degrading, the narrations prohibiting clothes that fall under shuhrah are weak.

We have seen in this method, which if one maintains and adheres to, spares great trouble and the truth becomes evident without problems or ambiguity by the grace and power of Allāh.

When a linguistic word is mentioned, it must be understood in its general sense and encompass all that falls under it (from its meaning besides the metaphors) in the language. It is obligatory not to include in it what its wording does not imply, as in His saying, exalted be He, "If you know there is in them good" [An-Nūr: 33] Goodness in language applies to righteousness in religion and also to wealth. So it is not permissible to specify some aspects of (these words in) this text without others except with specific evidence. And since Allāh said (regarding the goodness in the verse) "in them" and did not say "with them," (this established that) He intended only (goodness in)

³⁹ Al-Majrūḥīn 2/107, 713

⁴⁰ Ikmāl Tahdhīb al-Kamāl 7/106

⁴¹ Al-Jarḥ Wal-Ta'dīl by ibn Abī Ḥātim 6/345 | Ikmāl Tahdhīb al-Kamāl 7/106

religion. So we say it is not permissible to have *mukātabah* with *kuffār* slaves, as there is no goodness in him at all. As for the Muslim, his saying "Lā Ilāha Illā Allāh" is abundant goodness, so there is in that goodness in every case. Allāh did not say all goodness, and some goodness is goodness. By Allāh's guidance.

In the saying of the Prophet $\stackrel{\text{def}}{=}$, "There is no $zak\bar{a}h$ on $d\bar{u}na$ five awsuq of habbu or dates," the term " $d\bar{u}na$ (less and other than)" must be applied to all that it implies, by that omitting the obligation of it on vegetables, legumes, fruits, and all other produce from $zak\bar{a}h$ because they are not habb or dates. So there is only $zak\bar{a}h$ on what is specifically obliged besides this narration, there is no $zak\bar{a}h$ on anything else. The word 'habb' must be understood from its generality not specified to wheat and barley only, all exactly as mentioned by al-Kisā'ī and other $thiq\bar{a}t$ from $ahl\ ul-lughah$.

And as for what has come from the Prophet $\stackrel{\text{\tiny #}}{=}$ that he made habs of the surplus property from $kur\bar{a}$ (horses and mules) and silah (weapons)⁴². It is obligatory to place this ruling for everything that is $kur\bar{a}$ and $sil\bar{a}h$ in the language. And by that, it is not allowed to make $tahb\bar{\iota}s$ (endowment, allocate a property and prevent it for anything other than the path of Allāh) except what has come from texts because it is a shar of the $shar\bar{\iota}$ ah (any ruling), so it is not allowed to rule it except with texts we only allow specifically a person to make $tahb\bar{\iota}s$ for his own self, because that specifically is part of the general saying of the Prophet $\stackrel{\text{\tiny #}}{=}$, "If you wish you can make $tahb\bar{\iota}s$ of it and give it in charity." So it is allowed for a person to give charity to himself and to others because all of that is charity and the Prophet $\stackrel{\text{\tiny #}}{=}$ had said, "Start with yourself and give charity on yourself."

Some *ahl ul-kalām* have mentioned in this chapter a narration narrated by Abū 'Ubayd in his *gharīb ul-ḥadīth* a narration attributed to the Prophet ## that he ordered a people from al-Juhaynah to make a man warm who was cold, and warming in their language meant killing so they killed him."⁴⁵

⁴² Sahīh al-Bukhāri 2904

⁴³ Sunan al-Nasā'ī 3601

⁴⁴ Sahīh Muslim 997

 $^{^{45}}$ Gharīb ul-Ḥadīth by Abu 'Ubayd 4/33 | Al-Muṣannaf by ibn Abī Shaybah 28059, $5/\!470$

This narration is a lie and is not authentic, it is not free from Mujālid ibn Sa'īd who is weak, *irsāl* and *ibhām*. We are instead certain that it is an invented lie because the Prophet is the most eloquent Arab and the most knowledgeable of them in their language and he is ordered to clarify, and it is not from clarification for him to order them using words that necessitates according to them the opposite meaning of the Prophet \(\mathbb{E}\).

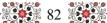
As for the story about 'Adī regarding the two threads⁴⁶, it does not indicate any of that, as the bad understanding was from 'Adī himself. There was for 'Adī sufficient evidence in the verse, "Then complete the fasting till the night" [Al-Baqarah: 187] that the meaning of, "Eat and drink until the white thread becomes distinct to you from the black thread" [Al-Bagarah: 187] means, "The thread of fajr from the thread of the night." And after these words, "From fajr" is mentioned. The act of 'Adī was done by some other companions may Allāh be pleased with them, while they are ahl ul-lughah and they were correct in that (their understanding) till after the verse also mentioned, "From fajr," so they moved from the first apparent to the next apparent that was revealed directly after it. This is that which no one is allowed to transgress.

⁴⁶ Sahīh Muslim 1090



Section: *Asbāb al-Nuzūl* Do Not Specify Rulings To The Ruled Situation, State Or People, The Ruling Remains General

As everything we mentioned about orders being obligatory and general is established, it is also obligatory not to specify the verses of the Qur'ān when there are narrations narrated from the Prophet about the state they were in when they were revealed, the situation, or the people they were revealed upon. This is all a false claim. Everything we mentioned before applies here as well. This is very clear, and all praise is for Allāh.



Chapter Thirteen: The Least Amount For A Plural

The people have differed regarding the least amount that makes something plural, a group said, "The least amount is two and onwards," and this is the view of the majority of our companions (the Zāhiriyyah).

Another group said, "The least amount of plural is three," this is the position of al-Shāfi'ī and we as well take from it.

Our companions used as evidence for their position by saying, "Plural in the Arabic language is combining something to something else, when one thing is added to another thing they have been combined, and it is a correct plural then."

This is a mistake, and there is no *hujjah* in it. Their saying implies that a single body (jism), which is made up of parts joined together—part to part and limb to limb—must then also be referred to using the plural form when it is described. However, the meaning of the term "plural," over which we differ, is not this meaning combining one thing with another. The intended meaning of "plural" is that which excludes both singular and dual forms, and it refers only to three or more distinct entities. This is unanimously agreed upon by ahl al-lughah, the huffāz of its words, and the masters of i rāb.

They also use as evidence the narration attributed to the Prophet # that he said, "The dual and what is above is a jamā'ah."⁴⁷

This narration from all its *turuq* is not free from 'Uthmān ibn 'Abd al-Rahmān ibn Sa'd ibn Abī Waggās, and Muslimah ibn 'Alī al-Khushānī, and al-Qāsim, and Ismā'īl ibn Muslim, and Sa'īd ibn Zarbī, and 'Īsā ibn Tahmān, and Mūsā ibn Abī Habīb, and 'Alīlah and his father are all weak, and some of them have $ijm\bar{a}$ on their weakness.

The only authentic narration regarding this is the saying of the Prophet # to Mālik ibn al-Ḥuwayrith and his uncle, "Establish you two the

⁴⁷ Sunan Ibn Mājah 972 | Sunan ad-Dāragutnī 1075 | Musnad al-Shāmiyīn 877, 2/39

prayer and let the oldest of you lead the prayer."48 And the Prophet # leading the prayer in a voluntary in which Ibn 'Abbās was alone with him.

And they use as evidence by saying, "Two people narrating about themselves is like a (large) group narrating about themselves without difference. Two people can say 'we did' and 'we made,' just as a group of people can say in the exact same manner."

There is no *hujjah* in this for them, as this is based on *qiyās*, and *qiyās* false. The narration of two differs from the narration of a group. For two people, we say, "Both of them did (fa 'alā)," whereas for a group, we say, "They did (fa 'alū)."

Likewise, two women speak about themselves just as two men do; the two women say, "We did (fa 'alnā)" and "We made (sana 'nā)," but this does not mean that they are referred to in the same way as two men. One does not say about the two women, "Both of them did (fa 'alā)," as one would for two men. In the Arabic language, qiyās is not permissible by the consensus $(ijm\bar{a}')$ of its scholars. Language is based on what is transmitted and heard, and pronouns differ based on whether the subject is absent or present, singular or plural, feminine or masculine, dual or plural.

While pronouns may coincide in some cases, their coincidence does not oblige uniformity in all instances, nor does their difference in certain cases oblige difference everywhere. All of this is derived from the authorities of the language, based on what they heard from the Arabs.

And also, a singular person may speak about themselves using plural pronouns, saying, "We did," "We made," "We do," "We make," "We say," or "This is with us," but this does not mean that the singular person is ruled a group.

So, their argument that the narration of two about themselves is like the narration of a group, implying by that that two is plural is invalid and baseless.

They also argued with the verse of Allāh Almighty, "If you both repent to Allāh, for both of you (dual), your hearts (plural) have deviated" [At-Taḥrīm: 4].

They said, "They only had two hearts, and the plural form was used for two people that are dual, so dual is also a plural."

⁴⁸ Sahīh al-Bukhārī 2848

There is no hujjah for them in this because it belongs to a specific linguistic category related only to the limbs. The naḥwiyyīn have transmitted that in cases involving "two of two," the Arabs sometimes referred to them using the plural form. This is because the Arabs considered the two things being mentioned, then conceptually added them to the two things they are associated with, resulting in a count of four. For this reason, the plural is used in these specific cases.

And they recite the poetry:

"Two distant, flat deserts, two wastelands ... their two backs (zahrāhumā, dual) are like the backs (zuhūr, plural) of two shields."⁴⁹

Here, the poet uses the plural $(zuh\bar{u}r)$ because he conceptually adds the two shields' backs to each other, treating them as a group.

This linguistic rule is limited to what has been explicitly transmitted from the Arabs and cannot be made *qiyās* of.

They also use as evidence the verse, "And [mention] Dāwūd and Sulayman when they two judged (in dual form) concerning the field, when the sheep of a people overran, and We were witness to their (plural) judgment" [Al-Anbiyā: 78].

There is no hujjah in this for them because, according to Arabic grammar, the pronoun $(dam\bar{t}r)$ refers to the nearest mentioned entity. In this verse, the nearest mentioned entity to the pronoun is the phrase "the sheep of the people". Thus, the people, along with Dāwūd and Sulaymān, form a group without doubt. It is as though Allah said, "We were witnesses to the judgment of the people in that matter," meaning the judgment upon them, similar to how one might say, "This is the judgment concerning this matter," meaning the judgment regarding it and upon it.

They also use as evidence the verses, "And has the story of the adversaries (plural) come to you? When they climbed over the wall into the private chamber. When they entered upon Dāwūd and he was alarmed by them. They said, 'Fear not. Two adversaries have wronged each other'" [Ṣād: 21-22].

They say, "But Allāh clarified that (those adversaries) who hare here mentioned in plural form that they were two and plural in amount, by saying,

⁴⁹ Al-Bayān Wal-Tabyīn 1/96 | Al-Nukat by al-Mujāshi 'ī pg. 502

'You have wronged him by asking for his one ewe to add to your ewes' [Ṣād: 24]. And one of them said, 'This is my brother; he has ninety-nine ewes, and I have one ewe. He said, 'Entrust it to me and he has overwhelmed me in speech'' [Ṣād: 23]."

This is not a <code>hujjah</code> for them, because the word <code>khaṣm</code> (adversary) in the Arabic language can equally apply to one, two, or a group. Similarly, the word <code>zawr</code> can refer to one, two, or a group. The same applies to <code>ilb</code> (hostility) and <code>harb</code> (war): you can say, "He is <code>ilb</code> against me and <code>harb</code> against me" to refer to one person, or, "Both of them are <code>ilb</code> against me and <code>harb</code> against me" for two people, and, "They are <code>ilb</code> against me and <code>harb</code> against me" for a group.

So it is not possible for anyone to merely claim that the climbers who came upon Dāwūd were two individuals, nor to claim that they were a group.

Allāh also says, "These are two adversaries (dual) who have disputed (plural) over their Lord [Al-Ḥajj: 19]. This verse was only revealed about six people: 'Alī, Ḥamzah, and 'Ubaydah ibn al-Ḥārith and 'Utbah, Shaybah, and Walīd ibn 'Utbah, who fought each other on the Day of Badr. Allāh informed at the end of the verse that they were a group, saying, "For those who disbelieved, garments of fire will be cut out for them..." [Al-Ḥajj: 19] till the end of the verse, "They will be adorned therein with bracelets of gold and pearl, and their garments therein will be silk" [Al-Ḥajj: 23].

Qays ibn 'Ubād said, "Abū Dharr took an oath that this verse, 'These two adversaries who dispute about their Lord' [Al-Ḥajj: 19] was revealed in connection with those who on the Day of Badr came out (of rows to fight against the non-believers and they were) Ḥamzah, 'Alī, 'Ubaydah ibn al-Ḥārith (from the side of the Muslims) and 'Utbah and Shaybah, both of them the sons of Rabī 'ah and Walid ibn 'Utbah (from the side of the non-believers of Mecca)." ⁵⁰

And as there is no clear text stating that the two disputants who came to Dāwūd sclimbed over the wall as only two, with no third present, no one has the right to use this to invalidate what has been confirmed in the language or to establish something that is not established in it.

And they use as evidence the verse, "The male thief and the female thief, cut off (plural) their hands (dual)" [Al-Mā'idah: 38].

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⁵⁰ Sahīh Muslim 3033

There is no evidence in this for them because it is not as they assumed; this is instead a valid plural because the $s\bar{a}riq\bar{\imath}n$ (male and female thief) have two hands so they are four hands with certainty. And cutting the two hands of the thief both are obligatory, hand after hand, if he steals again, by the texts of the Qur $\bar{\imath}an$.

They also use as evidence the verse, "And if he had brothers, for his mother is a sixth" [An-Nisā': 11].

This evidence is against them, not for them. It is not permissible, according to us, to reduce the mother's share from one-third to one-sixth except in the presence of three brothers, not two. Our position on this matter aligns with that of Ibn 'Abbās⁵¹.

Ibn 'Abbās' authority in the language is such that no one can deny his position except an ignorant person. Those who reduce the mother's share to one-sixth based on the presence of two brothers have ruled so either by *qiyas* or *taqlīd* (blind following), both of which are false.

If it is said, "'Uthmān held that view," it is said: He was opposed by Ibn 'Abbās, who rejected this view and clarified that the language contradicts it. 'Uthmān was unable to refute Ibn 'Abbās' argument and only responded by saying, "I cannot undo what people have inherited through tradition."

They also use as evidence the saying of Allāh about Ya'qūb, "Perhaps Allāh will bring them to me all together" [Yūsuf: 83].

They say, "It was only Yūsuf and his brother."

This is a severe mistake, they were nothing but three: Yūsuf, his brother which was imprisoned because of the golden bowl which he found in his camel's load. And the big brother who said, "So I will never leave [this] land until my father permits me or Allāh decides for me, and He is the best of judges. Return to your father and say, 'O our father, indeed your son has stolen, and we did not testify except to what we knew" [Yūsuf: 80-81]. And when Yaʻqūb lost three of his sons he hoped that all of them would return.

They also use as evidence the verse, "And if two factions (*ṭa'ifahs*) among the believers fight (plural), then make settlement between the two" [Al-Ḥujurāt: 9].

They say, " $T\bar{a}$ if ah in Arabic is a word that occurs on one and two and on more than that. Allāh told us once about the two groups and once

 $^{^{51}}$ Al-Muṣannaf by ʿAbd ar-Razzāq 19027, $10/256\,|$ Al-Mustadrak by al-Ḥākim $4/372\,|$ Tafsīr al-Tabarī $3/620\,$

plural by his saying, '(They) fight,' and once dual with this saying about the two, 'Then make settlement (plural) between the two.' And Allāh said in the next verse, 'So make settlement between your brothers' [Al-Ḥujurāt: 10] So he ordered settlement between two just as he ordered settlement between a group."

There is no evidence in this for them because *ta'ifah* is just as they said, applies for one, two and more. When Allāh speaks about them with the plural form, then the meaning is plural. And the meaning of two *ta'ifah*s in the beginning of the verse mentioned is the larger group within the two groups, and the meaning of the verse, "Then make settlement (plural) among (the two of) them," means between the two fighting groups. Then Allāh taught us the obligation of settlement between two just as it is an obligation between many twos when he said, "So make settlement between your (two) brothers (dual)." Understanding these verses on the manner we mentioned is an obligation and it is not allowed oppose it because it is general for the description of settlement between many and a few. If it would be as those that oppose think it is, we would not know that there can be settlement between two groups only and that is a clear mistake.

They also use as evidence the saying of Allāh to Mūsā and Hārūn, "Nay! Go you both (dual) with Our Signs. Verily We shall be with you (plural), listening" [Ash-Shuʿarāʾ: 15].

They say, "He did not say, 'With you both,' in dual but, 'With you,' in plural."

There is no evidence for them in this because they were three without any doubt, they were: Mūsā, Hārūn the two messengers and Pharaoh, the one to whom the message is sent. So the listeners are three with certainty.

Words in the language are expressions of meanings, and there is no disagreement among the Arabs that reporting about two individuals has a specific form distinct from the form used for three or more. For three or more, extending to an unlimited number, there is a form that differs from the dual; this is the plural form.

There is no disagreement among the people of the language that it is incorrect to say, "The Zaydūn stood up," when referring to two people, or "The Hindāt came to me," when referring to two.

The pronoun for the absent (third person) is universally agreed upon by linguists to replace the name of the absent individual and is substituted



accordingly. It is not permissible to replace a plural pronoun except with a plural subject, nor a dual pronoun except with a dual subject. If such substitutions were allowed, it would result in ambiguity and negate clarity.

Similarly, when addressing two individuals, it is impermissible to say, "You all stood up" or "You all sat down." Instead, one must say, "You both stood up" and "You both sat down." One does not say to two women, "You all stood up," nor does one address a group of women with, "You both stood up." Instead, it is said, "You (plural) stood up."

So our position is firmly established based on the clear linguistic rules of the language in which the Qur'ān was revealed and in which the Prophet spoke. We rely on its understood meanings in rulings unless we have a text to the contrary. With Allāh's guidance, we will succeed, and this is indisputable. May Allāh guide us to the truth.

Section: Rulings Issued In The Plural Form

When there is an order in the form of a plural and it is possible to encompass all that it entails ($isti \dot{a}b$), then it must necessarily be encompassed in full. Unable to do it is disobedience and a contradiction of the order. If it is not possible to fulfill all that is encompassed by the order and there is no way to achieve it entirely, the people hold two positions: One group holds that it is obligatory to fulfill as much of it as one is able, to the extent of one's capacity. Only that which is beyond one's ability, or is made exempted by a text or $ijm\bar{a}$, is excluded. This is the position we take. Another group holds that only the minimum that qualifies under the plural form is required, which is three or more, and anything beyond that is not obligatory.

The hujjah for the first position is our hujjah against those who claim husins or tawaqquf. The generality of the plural is certain and cannot be dismissed by doubt or mere claim. What one is incapable of is omitted, but what one is not incapable of remains obligatory. This is clarified by the saying of the Messenger of Allāh #, "If I order you to do something, do from it what you are able to." 52

From that is the words of Allāh Almighty, "Indeed, the sadaqāt (zakāh) are only for the poor and the needy" [At-Tawbah: 60] and the saying of Allāh, "A bequest for the parents and near relatives" [Al-Baqarah: 180]. We say that an $im\bar{a}m$ who is able to encompass all the poor, needy, debtors, and other specified categories of Muslims is obligated to do so. As for one who is unable to do so, there is unanimous agreement ($ijm\bar{a}$) among the ummah, without dispute, that he may limit his charity to some categories over others.

⁵² Sahīh al-Bukhārī 7288

This is indicated by the *ḥadīth* in which the Prophet said to Zaynab, the wife of 'Abdullāh ibn Mas'ūd, when she asked if it suffices to give charity to her husband and children from her own charity: "Yes."⁵³

Through these texts, we arrive at this ruling. Encompassing ($isti \dot{a}b$) and generality ($ium\bar{u}m$) are synonymous, and all of this falls under the use of the apparent meaning and the understanding the orders as obligations.

Some have attempted to differentiate between $isti \dot{a}b$ and $\dot{u}m\bar{u}m$, and that is a mistake, and they will never be able to do so. These individuals claim that the generality ($\dot{u}m\bar{u}m$) for a part of what the name encompasses is general for the part that it made general.

We say: And likewise is $isti'\bar{a}b$ for part of what the name encompasses is $isti'\bar{a}b$ for the part it encompassed, with no difference.

And plurals in both definite (ma 'rifah) and indefinite (nakirah) forms are the same in terms of necessitating isti 'āb. This is evident in the verse: "But of no avail will be signs or warners to a people (with nakārah) who do not believe" [Yūnus: 101]. This is a generality ('umūm) for all people who do not believe, even though it is expressed in the indefinite form.

Some have mistakenly thought that a plural in the indefinite form does not necessitate generality ($`um\bar{u}m$).

They argue that saying "men (with *nakirah*) came" does not convey generality in the same way as "The men (*ma rifah*) came."

This is a false assumption with no evidence. It is merely a habit formed in their minds based on their own customary usage in communication, which contradicts the true conventions of the Arabic language. We have refuted this with the aforementioned verse. With Allāh's guidance, we succeed.

 $^{^{53}}$ Şahīh al-Bukhārī 1466 | Şahīh Muslim 1000



Chapter Fourteen: *Istithnā* '(Exception)

We have already clarified in the chapters on narrations and on generality ('umūm) and specificity (khuṣūṣ) the methodology of istithnā' (exception). We will now, with the aid of Allāh, speak about the essence of *istithnā* and its types. We say, seeking Allāh's guidance:

The meaning of *Istithnā*': *Istithnā*' refers to the specification of part of something from its entirety, or the exclusion of something from that which another thing has encompassed (just as specification by takhṣīṣ). However, the grammarians $(nahwiyy\bar{u}n)$ are accustomed to reserve the term $istithn\bar{a}$ for instances where the exception is made using the words: hāshā, khalā, illā, mā lam yakun, mā 'adā, or mā siwā. When an exception is made through specifying something in a statement, such as when you say: "Fight the people, but leave Zayd," this is termed takhṣīṣ (specification), not istithnā'. Yet, in reality, both are essentially the same, as we have previously mentioned, as both specify.

There is disagreement regarding certain aspects of istithnā': One group said: "It is not possible for there to be an exception for something that does not belong to the same genus (jins) or type (naw') as the subject of the statement."

Another group stated: "It is possible for there to be an exception for something that does not belong to the same jins or naw as the subject of the statement." Both of these have been held by different groups among our companions from the Zāhiriyyah and by some of our brethren from the Qiyāsiyyūn.

As for us, we hold that it is possible for there to be an exception for something that does not belong to the same jins or naw as the subject of the statement. The nahwiyyīn term this as istithnā' mungati' (disconnected exception). In this case, it constitutes the start of a new statement. For example, if someone says: "The Muslims came to me, except the Jews," this is valid. It is as though he said: "Except the Jews, for they did not come to me." No grammarian (naḥwī) or linguist (lughawī) has ever denied this, provided it is done in the manner we have described.

The certain evidence for this is the saying of Allāh, "So the angels prostrated - all of them entirely, except Iblīs" [Ṣād: 73-74].

And the saying of Iblīs "And when We said to the angels, 'Prostrate to Ādam,' and they prostrated, except for Iblīs. He was of the *jinn* and disobeyed the order of his Lord" [Al-Kahf: 50].

Allāh did not leave for us any doubt here when he clarified that Iblīs was from the *jinn* (and not from the genus of the angels).

Recklessness led some who sought to support their method here to claim that angels are called *jinn* because they are hidden from view (*ijtinān*).

This is a corrupt statement for several reasons. The first and most clear one is Allāh's statement when He questioned the angels, "Did these [people] used to worship you?" [Saba': 40] Then the angels said, "Exalted are You; You, [O Allāh], are our *walī* excluding them. Rather, they used to worship the *jinn*; most of them were believers in them" [Saba': 41].

So, Allāh made a difference between angels and *jinn* as you can see.

The second reason is the Prophet *s statement, "Verily the angels were created from light and *jinn* from a flame of fire and Ādam is created from what is described to you," 54

He distinguished between the two types in a way that anyone who contradicts it is a disbeliever.

The third reason is the $ijm\bar{a}$ of the ummah that anyone who calls Jibrīl or Mīkā'īl a jinn apostates. So the falseness of this corrupt statement has become apparent.

The strongest argument made by those who supported this claim was their assertion: "*Ijtinān* (which comes from the same root as *jinn*, derived from *janna*) means *istitār* (being hidden). From this root, the word *mijann* (a shield, because it conceals the one who uses it) and *jannah* (paradise, hidden from sight) are derived. Then since both angels and *jinn* are hidden from human perception, they too can be classified as *jinn*."

This is utter nonsense from certain individuals among *ahl al-lughah* (linguists), and every group has its share of madness ($jun\bar{u}n$). If an opponent were to counter them by saying: Nothing is derived from ijtinān

⁵⁴ Şaḥīḥ Muslim 2996



(concealment) except from the *jinn*—so what, then, is *ijtinān* derived from? How would they respond?

And also even if their claim were valid—that the term *jinn* is derived from ijtinān—one must then ask: from what is ijtinān itself derived? If they continue in this manner without end, it leads to the assertion of entities without an origin or an infinite chain of derivation, both of which are impossible and absurd, this aligns with the beliefs of kuffār.

If they say, "The word from which something is derived has no derivation itself,"

They are asked: "What makes that word inherently original and more deserving of being the starting point than the second one?"

Some of the prominent *naḥwiyyīn* have fallen into error on this matter, such as Abū Jaʿfar al-Nahhās, who authored a book on the derivation of the names of Allāh, far exalted is Allāh beyond such claims. This view implies affirming the *hudūth* of Allāh's names, for anything derived is taken from something it is derived from, and anything taken must have previously existed in a state of non-existence. According to this principle, the names of Allāh would then have been non-existent.

This subject is extensive, divergent, and strays from the purpose of our book. The names of Allāh are, in fact, proper nouns (asmā' a'lām), like saying 'Zayd' or 'Amr.' What is intended by them is Allāh, the One who has always existed without partner, and who will always exist as the Creator of all things, the Lord of the Mighty Throne.

As for the audible sounds that are used to express these names, they are created; they did not exist and then came into being.

Among those who erred is Abū al-Qāsim 'Abd al-Raḥmān ibn Isḥāq al-Zajjājī, who said in his book on rare expressions: "Al-'Ashaqa is a plant that greens, then yellows, and then withers, and from it, the lover ('āshiq) is named."

Did this man not realize that every plant on earth follows this pattern? Why not, then, name the lover after herbs, which also green, yellow, and wither? If he were to follow this path, it would open up boundless avenues for him and lead to absurdities like those seen in some individuals we recognize as mad. This would place him among the ridiculous, the jesters, and the frivolous.

We instead say and affirm with certainty that all forms of etymology ($ishtiq\bar{a}q$) are invalid, except for the names ($asm\bar{a}$) of doers ($f\bar{a}$ ' $il\bar{\imath}n$) derived from their actions (af ' $\bar{a}l$) and the names ($asm\bar{a}$ ') of those described, derived from their sensory ($jusm\bar{a}niyyah$) or psychological attributes ($nafs\bar{a}niyyah$).

Even in this case, we do not know whether the names (asmā') were derived from the attributes ($sif\bar{a}t$) or the attributes from the names. However, we are certain that one originates from the other, as in the case of $d\bar{a}rib$ (striker) from darb (strike), $\bar{a}kil$ (eater) from akl (eating), abyad (white) from $bay\bar{a}d$ (whiteness), $ghadb\bar{a}n$ (angry) from ghadab (anger), and so on.

As for the other names that apply to *ajnās* (genera) and *anwā* (species), they have no etymology at all. None precede the others, but rather, all exist simultaneously. I used to discuss this matter with our Shaykh, Ḥassān ibn Mālik ibn Abī 'Abdah may Allāh have mercy on him, who was the most knowledgeable person in language that we met. He was meticulous and reliable (*thiqah*) in his thorough research and transmission of it.

He would tell me that many predecessors from *ahl al-lughah* agreed with my view. He even named one whose name I now doubt due to the passage of time, but I think it was Niftawayh.

How can anyone with 'aql name the angels as *jinn* while hearing Allāh's statement: "I will fill Hell with *jinn* and humans all entirely" [As-Sajdah: 13]. And we have not known any Muslim that says that any of the angels will enter Hell.

And He said, "Say, 'I seek refuge in the Lord of mankind, the King of mankind, the God of mankind, from the evil of the whisperer who withdraws, who whispers in the breasts of mankind, among *jinn* and among mankind" [An-Nās: 1-7].

Do you think that Allāh ordered His Prophet *, to seek refuge from the evil of angels? This is not something anyone with 'aql thinks.

Some who spoke to me on this matter objected using the verse, "And they made between Him and the *jinn* a kinship" [Aṣ-Ṣāffāt: 158] They said, "They used to say the angels are the daughters of the Most Merciful."

This is nothing, because it was narrated from ibn 'Abbās that the Quraysh used to say, the nobles of the *jinn* are the daughters of the Most Merciful⁵⁵. So Allāh meant the *jinn* in reality in this place, not the angels.

⁵⁵ Tafsīr by ibn Abī Ḥātim 18303, 10/3231 | Tafsīr al-Ṭabarī 10/535 | Fatḥ al-Bārī 8/532

And we ask those who go this path, is it permissible for a person to say the *jinn* surround the throne, and this is something no Muslim permits.

Allāh has informed us that the jinn are cut off from hearing (the heavens) and are struck down with meteors when they attempt to approach the sky. On the other hand, the angels are not like this.

It implies the one that says that 'jinn' are jinn because they are hidden, that he must also call his brain 'jinn' and call his fate 'jinn' because all of these are hidden.

Some have objected, arguing that Iblīs was included among the angels in the order to prostrate to Ādam.

This is false because Allāh informed us that he was from the *jinn*. The *jinn* are not included with the angels in matters specific to them. It is then certain that Allāh ordered Iblīs specifically and individually to prostrate as well. This is established by the text, as Allāh says, "What prevented you from prostrating when I ordered you" [Al-A rāf: 12].

So we are certain that Allāh ordered Iblīs to prostrate just as He ordered the angels. We also find that Allāh excluded Iblīs from the angels as he was of a different kind, leaving no room for doubt regarding this meaning.

As for other examples where $istithn\bar{a}$ [exclusion] is applied to a different type:

We find that Allāh also said, "It is not for a believer to kill a believer except by mistake" [An-Nisā': 92], meaning but by mistake.

And Allāh said, "Do not consume one another's wealth falsely, except if it is a transaction by consent from you" [An-Nisā': 29].

And Allāh said, "They will not taste death therein except the first death" [Ad-Dukhān: 56].

And Allāh said, "They will not hear therein ill speech or commission of sin Only a saying [of] peace, peace" [Al-Wāqiʿah: 25-26].

So He, the Exalted, made <code>istithnā</code> (excluded) the first death, even though death is not experienced at all in Paradise. And He excluded trade, which is permissible, from falsehood. And He excluded error from the prohibition of intentional killing, as one who kills mistakenly is not ruled a deliberate murderer. And He excluded good speech, "peace, peace," from sinful speech. From this category is also the statement: "Lā ilāha illā Allāh." In it, Allāh excluded Himself from the deities worshipped besides Him. He is

neither of their kind nor their type, as He, Exalted is He, has no *jins* or *naw* at all.

And Allāh said, "And there is no favor for anyone with Him to be rewarded, except seeking the countenance of his Lord, Most High" [Al-Lail: 19-20].

And al-Nābighah Al-Dhubyānī said:

"And there is no defect in them except that their swords bear notches from striking in the battles of the troops." 56

So he excluded pride from being among the faults.

He also said:

"I stopped there at sunset to question it, but it could not answer me, and there was no one in the dwelling except the cooking stones, which I could barely distinguish, and the trench, like a basin, in the hard, barren land." ⁵⁷

So he excluded the cooking stones and the trench from the landmarks And another poet said:

"And a town with no companions ... except the antelopes and the camels." 58

And Allāh also said, "And if We willed, We could surely do away with that which We revealed to you. Then you would find no protector for you against Us in that respect. Except [We have left it with you] as a mercy from your Lord. Indeed, His favor upon you has ever been great" [Al-Isrā': 86-87].

So He made $istithn\bar{a}$ (an exception), may He be glorified and exalted of His mercy from the protector ($wak\bar{\imath}l$) against him, for there is no way for. So, whatever was said by those who reject the exception of something from a different type (jins) in these verses, it is in agreement with our position,

⁵⁶ Al-Badī ibn al-Mu taz 1/26

⁵⁷ Dīwān by al-Nābighah 1/19

⁵⁸ Tāj al- 'Arūs 40/385



which is that it is an istithnā' munqați' (discontinuous exception) and conjoining ('atf) of one statement to another (of a different type), meaning 'but' or 'until.' It is established by necessity that one may inform with an affirmative statement about one thing and a negative statement about another. There is no difference between connecting two statements with a conjunction or using an exception particle. All of this has been mentioned in the texts as we have explained, and success is with Allāh, the Exalted.

Section: *Istithnā* 'From A Generality—Excluding The Majority While Retaining The Minority

They differed regarding a type (naw) among the types (anwa) of $istithn\bar{a}$ — specifically, making an exception from a generality where the majority is excluded, leaving only the minority.

A group saw the possibility of this, and this is the view of all our companions (*Ahl al-Zāhir*), which we follow. The majority of the Shāfi 'iyyah also held this opinion.

And a group rejected it, which is the view of the majority of the Mālikiyyah, and we do not know any hujjah for this group at all in preventing it from occurring, except that some of them say, "You have agreed with us on the possibility of $istithn\bar{a}$ (exception) of the least amount, but we do not agree with you on the possibility of $istithn\bar{a}$ of the most."

This hujjah is only valid in matters for which there are no naṣṣ or established certain decisive *evidence* (*burhān*), whether intellectual ('aqli) or texts (*shar* ' $\bar{\imath}$). But as for everything for which certain decisive evidences are established, we do not care about who agrees with us or who opposes us.

And certain decisive evidences have established that it is possible to make an exception of the majority from a generality, leaving only the minority. Allāh, the Exalted, said: "Stand [in prayer] at night, except for a little; half of it, or subtract from it a little, or add to it, and recite the Qurʿān with measured recitation" [Al-Muzzammil: 2–4].

Allāh, the Almighty, substituted "half" for "a little" (badal), meaning He made half a badal (substitution) for "a little" (badal here refers to expressing the same concept with different terms, such as referring to "your brother" instead of naming him, for example, "Zayd, your brother." This is known as badal al-bayān (appositional substitution for clarification)).

There was never any disagreement that Allāh did not oblige standing for the entire night, but rather standing during the night. This substitute (badal) takes the place of what it was substituted for, and the understood



meaning is that Allah said, "Stand [in prayer] at night except for half of it." Then, Allāh provided us with a great benefit by indicating that half is considered "a little" in relation (when compared) to something whole.

If someone argues, "How can you use this as evidence when you say that standing for more than a third of the night is not permissible because the Prophet said, "There is no standing above Dāwūd's standing, which was one third of the night after sleeping for half of it, then sleeping for one sixth?"59

It is said to them: The meaning of Allāh's statement, "Stand the night except a little," is an indication of the time for standing in prayer, not the duration of the standing. So the meaning of the verse and the narration concur. All of it is from Allāh, and what is from Him contains no contradiction. Allāh Almighty said, "If it had been from [any] other than Allah, they would have found within it much contradiction" [An-Nisā': 82].

It is then established that the meaning of His statement, "Stand [in prayer] at night except for a little" [Al-Muzzammil: 2] is to stand within the night, except for a small portion of it, which is half of it or less (the timeframe during which the night prayer is to be performed, not the exact duration of the prayer as in the $had\bar{\iota}th$).

Similarly, His statement, "You stand [in prayer] less than two-thirds of the night, or half of it, or a third of it" [Al-Muzzammil: 20] refers to the phrase less than.

And His statement, "They used to sleep but little of the night" [Adh-Dhāriyāt: 17], alongside His prohibition, conveyed through His Prophet , against standing in prayer for more than one-third of the night, clarifies that two-thirds is considered 'a little' in comparison to something whole. They used to sleep little, meaning two-thirds [of the night]. It can also be understood as: "They did not sleep for a little part of the night," referring to one-third or less. This understanding is also valid and aligns with what has been authentically narrated from the Prophet about standing in prayer for one-third of the night. Both understandings are consistent, because if a person sleeps for two-thirds of the night and stands in prayer for one-third, then twothirds are 'little' in relation to the whole, and the same applies to the onethird. With Allah lies success.

⁵⁹ Sahīh al-Bukhārī 1131, 3420 | Sahīh Muslim 1159



If the objector objects with the saying of the Prophet $\mbox{\@modelnew{\#}}$, "One third is a lot." 60

We estimate that what has led these people into this dilemma is them permitting $istithn\bar{a}$ (excluding a portion) of less than one-third for someone making habs (endowment), while prohibiting $istithn\bar{a}$ of more than one-third. Their error led them to an even more severe error.

The Mālikīs are the most deserving of being veiled when mentioning this narration, which they have used to object, the saying of the Messenger of Allāh , "One-third is a lot."

This is because they consider one-third a lot in the matter of *habs*, as we mentioned. Then, they rule it as little in the ruling of a woman with a husband regarding her property, allowing her to take up to one-third without her husband's consent, but preventing her from taking more than one-third except with his approval.

They then rule one-third a lot in the case of a $j\bar{a}$ 'iḥa (pestilence or disaster) that affects one-third or more of the crop. They rule what is less than one-third as little and assign no ruling to it.

They also rule one-third little when it comes to *istithnā* ' by a seller who excludes a portion of his sold orchard or sold crops, allowing it if it is up to one-third or less but prohibiting it if it exceeds one-third, ruling it as a lot. And they rule one-third a lot when selling a sheep and excluding specific portions measured in *ritls*. They prohibit it if the excluded weight amounts to one-third but permit it if it is less than one-third.

Then, they rule one-third little in the case of a rented house that contains palm trees without visible fruit, or with fruit that has appeared but has not ripened. They allow the inclusion of such fruit in the rent if it is up to one-third but prohibit it if it exceeds one-third.

They rule one-tenth little and anything above it as a lot, as in the case of someone who orders another to buy a slave girl for thirty $(d\bar{\imath}n\bar{a}rs)$, but the buyer purchases her for thirty-three. They state that the transaction is binding upon the one ordering it. However, if the price exceeds that, they deem it not binding upon the one ordering it.

They also state that an increase of more than five percent (half of onetenth) is ruled a lot, as in the case of someone ordering another to buy a slave for him for one hundred dinars, but the buyer purchases it for one hundred

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⁶⁰ Şaḥīḥ al-Bukhārī 56, 2742, 2744, 3936, 4409, 5354, 5668

and five dinars. They say the one ordering it is bound by this purchase but is not bound if the price exceeds this amount.

At times, they rule half as a small amount, as in their ruling about someone who exchanges half a dīnār for dirhams and then uses the remaining half to purchase food. They rule this as permissible. But if the person exchanges more than half and then uses the rest to buy food, they prohibit it, claiming that it is a lot.

They say that if someone buys goods and finds some of them defective, such as a dead sheep among slaughtered ones, and if the main part of the transaction (which is expected to yield profit) is affected, the entire deal is annulled.

But if the defect is less significant, they only annul the defective part and validate the rest of the contract. They rule a lot in this case as seventy percent, ruling anything less than three-quarters a small amount.

They also rule that a defect of less than half in the ear or tail prevents the validity of a sacrifice, but they permit a defect that is one-third or less.

Then, they rule one-third as a small amount in the case of jewelry, swords, and maṣāhif containing silver. If the silver amounts to one-third of the value of the item, they allow selling it either wholly or partially. But if the silver exceeds one-third of its value, they prohibit its sale if it involves direct exchange of silver for silver. The same applies if the item contains gold exchanged directly for gold.

And indeed, hearing these corrupt sayings, which Allāh Almighty has not permitted, is a lesson for those who take heed and a sign for those who reflect. The amazement multiplies concerning a people who accepted and adhered to this, as you see, abandoning the evidence of the Qur'an and Sunnah and their texts. Allāh is sufficient for us and the best trustee.

An istithnā' (exception) that excludes the majority, leaving the minority thereafter, has been established in the texts of the Qur'an, invalidating the argument of anyone who opposes it. Allāh, the Almighty, said to Iblīs: "Indeed, My servants—no authority will you have over them, except those who follow you of the deviators" [Al-Hijr: 42]. And also, the Messenger of Allāh informed us that we, among the nations entering Hell, are like a black hair on a white bull, and that he # hopes that half of the inhabitants of Paradise will be from his nation⁶¹. He also said that out of

⁶¹ Sahih Al-Bukharī 6528, 6642

every thousand people, nine hundred and ninety-nine will be sent to Hell and only one to Paradise⁶².

This is the judgment on all the children of Ādam . What is sufficient for this is His saying, "And most of the people, although you strive [for it], are not believers" [Yūsuf: 103].

As you can see, Allāh excluded the deviators from the general populace, who themselves are the majority. He excluded a thousand minus one from a thousand, indicating an $istithn\bar{a}$ of the majority leaving the minority.

Istithn \bar{a} is only excluding part of what the informer initially mentions from something general. There is no difference between excluding the majority and excluding the minority; both are valid statements. A statement about the majority is just as valid as a statement about the minority. Only an obstinate opponent or an ignorant person denies this.

And also there is no doubt by necessity that ten thousand is greater than ten thousand minus one. Then, ten thousand except one is small compared to a complete ten thousand. By that excluding a small part from a larger whole is possible without dispute.

And also, there is no difference between saying "A thousand except nine hundred and ninety-nine" and simply saying "One." Similarly, there is no difference between saying "Seven hundred and three hundred" and saying "A thousand." All of these are consistent concepts; they are merely different expressions conveying the same meaning.

So there is no difference between excluding three hundred from a thousand—since it is part of the thousand—and excluding nine hundred and ninety-nine from a thousand, as it too is part of the thousand without difference.

If someone were to say: "Your Lord is a thousand minus nine hundred and ninety-nine—does this not mean the same thing as 'one'?"

It is said to him, with Allāh's guidance: If you understood the meaning of calling upon your Lord, you would not attribute such a statement to us. Because it is not permissible for us to say that Allāh, the Exalted, is 'individual' (*fard*) or 'unique' (*fadh*), nor do we say anything except what has been explicitly mentioned in the text, that He is One (*Witr*)⁶³ because all of

⁶² Sahīh al-Bukhārī 4741, 7483

⁶³ Sahīh Muslim 2677

these are giving of names, and it is not permissible to give names to the Creator the Exalted with anything other than what He named Himself. Whoever does so has deviated in His names.

Allāh, the Exalted, is not a number or an amount ('adad), and what is other than Him is called 'one' only metaphorically. Otherwise, there is nothing in existence that is truly 'one,' because the true 'one' is that which cannot multiply or divide in any way. This definition is not applicable to anything in creation, but it applies to Allāh, the Exalted, alone.

If someone says: "Then make an istithnā' entirely instead of the majority."

It is said to him: This is invalid, as it is one statement completely nullifying and contradicting the other. If someone were to say: "Your brothers came to me, except your brothers," it would be equivalent to saying: "Your brothers came to me, your brothers did not come to me." This is a clear contradiction, impossible to reconcile, a false statement.

This impossibility, this however does not occur when excluding the majority of a group, leaving the minority, or when excluding something that is of a different genus (*naw*). For example, if you were to say: "Your brothers came to me, but your cousins did not," or "Your brothers came to me—not all of them, but some of them," these are truthful and coherent statements.

This is the difference between excluding the entirety from something, excluding the majority from something, and excluding something that is of a different genus.

Some have said, "When someone uses general words in their statement, it is necessary that—if they make an exception from the genus of that general statement—what remains must still qualify under the name those general words."

So They do not allow saying: "Your brothers came to me, not all of them, but one, arguing that the one who came is not 'brothers' but rather 'a brother.' By that, they assert that an exception must leave at least three or more remaining."

This argument is meaningless because it invalidated by the saying of Allāh, "One thousand years except fifty" [Al-ʿAnkabūt: 14].

Because a thousand is not equivalent (is other than) nine hundred. If they say, "It is equivalent to nine hundred fifty" It is said: And the coming of



one brother is equivalent to the absence of all except him without any difference.

If someone says, "If you do not permit $istithn\bar{a}$ " of the entire (not just the most) general genus, how can you say that if someone states 'I owe so-and-so one hundred $d\bar{\imath}n\bar{a}rs$ except for a slave worth one hundred dinars,' or 'I owe so-and-so one hundred $d\bar{\imath}n\bar{a}rs$ except for one hundred $d\bar{\imath}n\bar{a}rs$,' that this is an acknowledgment of someone on which nothing is ruled and nothing is demanded by it.

It is said to him, and with the help of Allāh the Most High, this is in agreement with our *aṣl* because when the exception of the entire thing of something is impossible and the speaker is speaking of impossibilities which is not possible, then his statement is invalid and his acknowledgment is corrupt, and acknowledgment is only valid if it is correct and free from everything that invalidates it.

So we do not rule based on this acknowledgment because it is contradictory. Our opponents agree with us that if a man were to say in the presence of trustworthy witnesses that "I committed adultery just now in front of you with a woman who was with us and killed a Muslim man without cause," or if he said "I raised a Muslim man to the sky and then released him so he fell into the sea and died," or if he said "I took the staff of Moses and stabbed a man with it and killed him," then none of this would be taken into account, and he would not be judged except for madness and lunacy.

There is no difference between these examples and our ruling that invalidates every corrupt or contradictory acknowledgment where its conclusion nullifies its beginning. Similarly, there is no difference between invalidating part of a general statement through exception and invalidating the entirety of it through contradiction or explicit negation. And success is from Allāh the Exalted.



Section: *Istithnā* On Conjugated Matters

If there are things that are conjoined $(ma't\bar{u}f\bar{a}t)$ with a conjunction, and then there comes an $istithn\bar{a}$ (exception) after that which is conjoined. If there is not in the texts clarification that that $istithn\bar{a}$ only refers to some of that conjoined thing, then it is obligatory to refer it to all of it. The certain decisive evidence for this is that none of them is more likely than the other to be preceded.

If someone says, "Then why don't you say that it applies only to the nearest one (the word which is directly before the $istithn\bar{a}$) because the previous words have been understood upon their generality, and they should not be changed except by text or $ijm\bar{a}$ '."

The answer, with Allāh's help and guidance, is as follows: Every set of words that are combined/conjoined under a single ruling is not considered complete in its meaning until the speech itself concludes. If an exception is made immediately after these combined words, the exception is established and valid. As the validity of the exception is established, it specifies the text. And then to limit the exception to only part of what precedes it, while excluding the rest, is then merely a claim with no evidence.

If someone says, "Applying it to the nearest is certain, and applying it to all that came before is doubtful."

It is not doubtful if there is evidence of its validity; rather, it is then certain. And also, the apparent meaning of the wording applies to all that precedes it, and specifying the apparent meaning without evidence is not permissible.

We say the same regarding the verse about *qadhf* in Allāh's statement: "And they are indeed the sinners, except for those who repent" [An-Nūr: 4–5]. The exception mentioned here refers back to everything that preceded it (from the conjoined matters). It removes the state of sin from them and necessitates the acceptance of their testimony.



If someone were to say: "Why do you not also drop the *ḥadd* punishment through this exception?"

We say: The Prophet's statement prevents this, as he said to the one who accused his own wife: "Bring evidence, or else a hadd on your back⁶⁴

This is because the Prophet did not invalidate the *hadd* except through evidence, not through repentance.

And also, the Prophet sobliged the *hadd* on Ḥamnah and Miṣṭaḥ for their accusation against ʿĀʾishah, the Mother of the Believers, may Allāh be pleased with her. There is no doubt that they repented after the verse declaring her innocence was revealed. Had they not repented, they would have apostatized and disbelieved, and their blood would have been permissible to shed. So, it is established that they were punished even after their repentance was certain⁶⁵.

Similarly, we say about the saying of the Most High, "Then the freeing of a believing slave and a compensation payment (*diyah*) presented to his (the deceased's) family except they if they absolve it" [An-Nisā': 92], if it were not for the clarification that the exception here only applies to the family, the obligation of freeing of a slave would have been annulled (and also the obligation of the *diyah* mentioned). But the family has no right to the (obligation of freeing) a slave, nor is absolving for them in that. And He, the Most High, said, "And every soul earns not [blame] except against itself, and no bearer of burdens will bear the burden of another" [Al-Anʿām: 164].

Similarly, we say about His saying, the Almighty, "Then the ones who can draw correct conclusions from it would have known about it. And if not for the favor of Allāh upon you and His mercy, you would have followed Satan, except for a few" [An-Nisā': 82].

This exception refers back to the addressees themselves. According to us, the "few" are excluded from the favor and mercy, not from following Satan. The verse must be understood according to its apparent meaning without any *ta* '*wīl*. Its meaning is as follows: "Allāh had mercy on you and favored you, except for a few among you whom He neither had mercy upon nor favored. These are the disbelievers among you and the hypocrites within

⁶⁴ Sahīh al-Bukhārī 2671

⁶⁵ Şaḥīḥ al-Bukhārī 2637, 2661, 2879, 4025

you. So you did not follow Satan because of Allah's favor and mercy. As for those whom Allah did not favor nor have mercy upon they followed Satan."

What we mentioned is evident from witnessed reality and the heard text. The minority among the addressees present alongside the companions may Allāh be pleased with them—were hypocrites excluded from favor and mercy, who followed Satan. They are the "few" mentioned in Allah's statement: "Except for a few." These "few" are excluded from those favored and shown mercy, and by that refrained from following Satan. This understanding applies to all who are mentioned in the verse.

And the people have regarding this verse differed, some said this exception refers back to Allāh's statement, "Then those who draw correct conclusions from it among them would know it... except for a few" [An-Nisā': 831.

This is false because referring the exception ($istithn\bar{a}$) to the most distant mentioned part (noun or phrase) of the text is a baseless and false claim. None of the scholars *nahw* or *ahl al-lughah*, who are the authorities in such matters, have ever made this claim.

Rather, the people are only upon two views as we previously mentioned: Some say the exception refers to the nearest mentioned noun or phrase. Others say it refers to the entire statement.

If an *istithnā* ' is found to refer to the most distant mentioned part of the text, this instance remains an anomaly and cannot be generalized as a rule for all cases. This is because it falls outside the established principles (ma 'hūd al-aşl), like a word being moved away from its original linguistic place as we clarified before.

Some have argued that the phrase "except for a few" refers back to Allāh's words: "They would have spread it," meaning "They would have spread it except for a few."

This claim is invalid for the same reason the previous one is invalid, without any distinction between them.

Others said: The "favor of Allāh" and His "mercy" mentioned in the verse refer to Muḥammad and the Qur an. They argue that the meaning is: "If it were not for them, you would have been disbelievers following Satan, except for a few whom We guided before this, such as Zayd ibn 'Amr ibn Nufayl and Qus ibn Sā'idah."

This ta ' $w\bar{\imath}l$ is entirely corrupt because Zayd and Qus, if it were not for Allāh's favor and mercy upon them, would have followed Satan. Exceptions are only valid when they exclude something from a category to which it originally belonged. So this exception can only refer to the favor and mercy mentioned in the verse, and to refraining from following Satan—both of which are explicitly addressed in the text. Allāh grants success.

Even if $istithn\bar{a}$ 'would not be possible except by applying it to only to the nearest mentioned noun or phrase, this still would not prevent us from accepting the testimony of someone who committed qadhf (slander) after repenting. This is because sinfulness is removed from such a person through repentance, as in the verse and by the consensus $ijm\bar{a}$ ' of the Ummah.

When sinfulness is removed, uprightness ('adālah) is necessarily established, as there is no third category between a sinful person (fāsiq) and an upright person ('adl) among those addressed by the Qur'ān and Sunnah. Once uprightness is confirmed, their testimony must be accepted, based on Allāh's statement: "Allāh is pleased with them, and they are pleased with Him" [Al-Bayyinah: 8].

It is prohibited for us not to be pleased with those whom Allāh is pleased with. As being pleased with them is obligatory, then accepting their testimony is also obligatory, as they fall under the category of witnesses whom we are commanded to accept in Allāh's statement: "...and take testimony from those whom you are pleased with as witnesses" [Al-Baqarah: 282]. So it has been conclusively established that the cessation of sinfulness (fisq) necessitates the acceptance of the person's testimony.

And it is from the astonishments from the companions of Abū Ḥanīfah that they abandon the apparent meaning of the verse and lean towards their erroneous ra $\bar{\tau}$. For the text of the verse only obliges that his testimony is not accepted based on the qadhf alone, as long as he does not repent afterwards, and not that his testimony must not be accepted until the hadd is applied against him. And they said, "His testimony is not accepted until he is punished by the hadd," by that adding to their ra $\bar{\tau}$ what is not in the Qur $\bar{\tau}$ and contradicting the verse in every case. The Prophet $\bar{\tau}$ said regarding many of the $hud\bar{u}d$ that its establishment (of the hadd) is a $\bar{\tau}$ for the doer, and they are $ahl\ ul$ - $qiy\bar{u}s$ by their own claims, then why do they not make a $qiy\bar{u}s$ of

⁶⁶ Sahīh al-Bukhārī 18, 3892, 3999, 4894, 6784, 6801, 7055

the one receiving the *hadd* for *qadhf* to the one receiving the *hadd* of *sariqah* and $zin\bar{a}$.

The Mālikiyyah have joined them in some of that and have rejected the testimony of the one receiving the hadd for doing that which he received the *hadd* for and have accepted it for that which he did not receive the *hadd* for. All of this is a lie against the Prophet # which he has not allowed and desires for which there are no texts. And in Allāh we seek refuge from that.

And similarly is the saying of Allāh, "And those who do not invoke with Allāh another deity or kill the soul which Allāh has prohibited, except by right except by right... Except the one that repented, believed and did good acts" [Al-Furqān: 68-70]. For verily the *istithnā* ' that came at its end refers, by $ijm\bar{a}$, to everything that preceded.

And ishtirāt (conditions) is the meaning of the istithnā in everything we said regarding that, and from that is the saying of Allāh, "This [allowance] is for him among you who fears affliction" [An-Nisā': 25].

This is as you can see a correct istithnā' for the one who fears affliction, for him is everything that has preceded from the conditions without the ruling being for the one who does not fear affliction.

And similarly is the verse, "Then the one who does not find it, then a fasting of three days" [Al-Baqarah: 196], regarding the kaffārāt ul-aymān, this is a condition about the inability of finding what is mentioned in the verse, from freeing a slave, clothing, feeding, it is not for that which is the closest mentioned in it.

And similar is the verse regarding muḥārabah, "Except for those who came back with repentance before they fall into your power" [Al-Mā'idah: 34]. This returns to the omission of everything mentioned in the verse from killing, crucifying, expelling, cutting, punishment, disgrace, not to only some of that which is mentioned according to ijmā'.

If someone objects using the verse, "But if you have not gone in unto them, there is no sin upon you" [An-Nisa': 23], claiming that it refers to the closest mentioned (noun or matter).

We say: This is the case in this verse only due to clear and necessary evidence. It is not possible for the condition mentioned in this verse to apply to everything mentioned within it, because Allah said: "your wives' mothers, and your step-daughters under your guardianship [born] of your wives unto whom you have gone in" [An-Nisā': 23].



The mention of entrance pertains specifically to the description of the women who are mothers of stepdaughters, and not to the description of the mothers of wives.

It is absolutely impossible for Allāh to say: "The mothers of your wives from your wives with whom you have gone in," as this would be a corrupt statement which cannot be understood.

So it is clear that the mention of entrance is necessarily connected only to the mothers of stepdaughters because it is linked to the clause "whom" (allātī). This term describes the women who are necessarily the mothers of stepdaughters. So the saying of Allāh: "If you have not gone into them, there is no sin upon you" [An-Nisā': 23] must also refer to them (i.e., the mothers of stepdaughters) by necessity. This is because the condition applies only to two possibilities: either the entrance or lack thereof, which connects directly to the text of the statement, and not to what precedes it.

If they say, "You allow exception of a thing with another genus, then what do you say about someone that sells a commodity for a $d\bar{\imath}n\bar{a}r$ minus a dirham or minus a sixteen kilograms of wheat?"

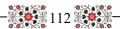
We say: This is according to us impossible and prohibited in sales because turns into two sales within one sale, because a *dirham* and another commodity cannot have an exception from other than its *jins* according to us except with the meaning of $istithn\bar{a}$ al-munqati as we clarified in the beginning of this chapter. As that is the case then the matter reverts only to valuation. It means that he sold it for a dinar except for what corresponds to the exchange value (sarf) of the *dirham* from the $d\bar{\imath}n\bar{a}r$, and this is either another sale or an unknown price, both of which are prohibited in sales.

However, this rule does not apply in matters of acknowledgment ($iqr\bar{a}r$). For example, if someone acknowledges owing another a $d\bar{\imath}n\bar{a}r$ but states that the other person also owes them a dirham, the dirham (or its value) would be excluded from the acknowledgment.

Similarly, if someone making an acknowledgment says: "I owe him a $d\bar{\imath}n\bar{a}r$, and he owes me $d\bar{\imath}n\bar{a}rs$," or "I owe him a $d\bar{\imath}n\bar{a}r$, except for two dinars that he owes me," no judgment would be made against him at all. This is because, after acknowledging his debt, he presented a statement that nullified his acknowledgment entirely.

But if this scenario were to occur in a sale, it would not be permissible

according to any of the Muslims. And Allāh grants success.



Chapter Fifteen: Pronominal Reference (*Al-Kināyah Bil-Pamīr*)

The pronoun $(\underline{dam\bar{u}r})$ always refers to the nearest mentioned noun in a statement $(\underline{kal\bar{a}m})$, and nothing else is possible. This is because the pronoun substitutes for something that has been stated or ordered. If it were not to refer to the closest mentioned noun, it would create ambiguity and hinder understanding, this is while languages were only established for clarity.

When there are multiple things being judged/ruled or mentioned, and a pronoun follows them as a plural pronoun, it refers to all of them collectively, as we have clarified regarding *istithnā* 'without difference. Do you not see that if someone says, "Zayd, 'Amr, and Khālid came to me, and I killed him," there is no disagreement among *ahl al-lughah* that the pronoun refers to Khālid, and it is not permissible for it to refer to Zayd or 'Amr?

If there is ever a case where a pronoun in $nus\bar{u}s$ refers to a more distant noun, it would be like what we have previously described: a change from its original linguistic position. And if someone says, "Zayd, 'Amr, Khālid, 'Abdullāh, and Yazīd came to me, and I killed them," it would, without disagreement among *ahl al-lughah*, refer to all of them collectively.

What established that the condition mentioned in the verse of *taḥrīm* applies specifically to stepdaughters (*rabāʾib*), and not to the mothers of wives, is what we mentioned earlier: the pronoun always refers to the nearest mentioned noun. The feminine plural pronoun in the verse, "you have gone into them (*bihinna*)," refers to the nearest mentioned noun. It cannot be otherwise. The nearest mentioned noun is the mothers of our stepdaughters, and then, the pronoun must refer to them, as we have clarified. With Allāh's guidance.



Chapter Sixteen: Demonstrative Pronouns

A demonstrative pronoun (*al-ishārah*) is different from a personal pronoun, as the demonstrative pronoun must refer to the farthest mentioned noun, and this is its rule in the language if the demonstrative pronoun is: 'that (*dhālika* and *tilka*)' or 'he/it (*huwa*)' or '*ulā*'*ika* (they)' or 'them (*hum*)' or 'she (*hiya*)' or 'they (*humā* as dual).'

However, if the pronoun is: 'this $(h\bar{a}dha)$ ' or 'these $(h\bar{a}dhih)$,' it necessarily refers to something nearby and present, there is no disagreement among *ahl ul-lughah* about this. No $nah\bar{w}\bar{\imath}$ knows anything regarding this at all other than what we mentioned.

And for that, we have obliged that *qur* 'in the ruling of the 'iddah refers specifically to the period of purity (tuhr) and not menstruation, even though *qur* 'in the language can mean menstruation just as it can mean purity. There is no difference.

However, when the Prophet said, "Order him to take her back until she becomes pure, then menstruates, then becomes pure; that is the 'iddah which Allāh has ordered for women to be divorced in," his statement 'that' is a demonstrative pronoun indicating something distant. The farthest mentioned noun in the narration is his statement 'becomes pure.' So, as it is established that the period of purity in this narration is the 'iddah that women are ordered to observe when being divorced, it establishes that it is the waiting period to be observed for completing the 'iddah. With Allāh's guidance."

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⁶⁷ Şahīh Muslim 1471



Chapter Seventeen: *Majāz* (Metaphor) and *Tashbih* (Similarity)

The people have differed about $maj\bar{a}z$. Some people allowed the possibility of it in the Qurʿān and Sunnah. And others have prohibited it. What we affirm, with Allāh's guidance, is that if we are certain through $nus\bar{u}s$, $ijm\bar{a}$, or $iab\bar{i}$ ah that a word has been changed from its original place in the language (from meaning) to another meaning, then we must adhere to that. For Allāh is the One who taught Ādam all the words (in existence). And He has the authority to name what He wills as He wills.

As long as we do not find evidence that a name has been transferred from its original meaning placed in the language, it is not permissible for a Muslim to claim it has been transferred, because Allāh said, "We did not send any messenger except [speaking] in the language of his people to state clearly for them" [Ibrāhīm: 4].

So, every address that Allāh or His Messenger # has addressed us with remains in its original place in the language and its ma ' $h\bar{u}d$ unless there is a text, $ijm\bar{a}$ ', or sensory necessity ($dar\bar{u}ratu\ hiss$) that testifies that the name has been transferred by Allāh or His Messenger # to another meaning. If such evidence is found, we take it according to the transferred meaning.

This is the only permissible approach. Whoever understands this principle and keeps it in mind without forgetting it will greatly benefit from it and will be safeguarded from the significant mistakes that many people have fallen into.

Every word that Allāh has transferred/changed from its original linguistic meaning to another meaning, if Allāh has ordered us to use it in speech and action—such as salah, zakah, hajj, sawm, riba, and similar words—none of these are ruled as metaphors. They are instead real, true designations (sahah) and necessary terms (haqaq), established by Allāh's determination.

As for what Allāh has transferred/changed from its original linguistic meaning to another meaning, yet ordered us to act upon it without naming it with that particular name, this is what rules it a metaphor. For example, His statement, exalted be He: "And lower to them the wing of humility out of mercy" [Al-Isrā': 24]. Here, Allāh has ordered us to humble ourselves before our parents and show them mercy, but He did not obligate us to affirm, in our speech, that humility possesses a literal wing. There is no disagreement on this.

However, this is not the case with salāh, zakāh, and sawm, for there is unanimous agreement that we are obliged to call for these actions using these specific names.

Those who reject majāz say, "Majāz are lies, and Allāh and His Messenger #, are far from lying."

It is said to them: You are right, but the transferring of a name that Allāh has attached to something in one place to another place is not falsehood but the truth itself, for the truth is what He, exalted be He, does, and falsehood is what He has not ordered or done. Whoever thinks that there is a standard of truth that binds Allāh, exalted be He, to follow it, has apostated.

We have discussed this in the chapter on affirming the evidences of the 'aql, and we will elaborate on it, by the will of Allah, in the chapter on the falsehood of 'ilal in this book.

The asmā' (names) are not assigned to their musammiyyāt (designated entities) except either by tawqīf or by istilāh. There is no mūqif (authority for assignment) except Allāh, exalted be He. If the mūqif, exalted and mighty, assigns a name (ism) to a certain musammā (entity) for a specific time or meaning, and then changes that name to another meaning in a different place, there is no falsehood in this, nor does falsehood have any place here.

The liar is the one who transfers a name from its original place in the language to another meaning without evidence, thereby creating deception. Such a person is a sinful liar.

Similarly, if two individuals agree (have *iṣṭilāḥ*) to call something by a particular name—whether this name is invented by them or borrowed from something else—solely for mutual understanding and not to deceive, there is no falsehood in this.



If such a practice is permissible among us, it is even more so for the One whom everyone is obligated to worship and obey as much as they can. He, exalted be He, has greater right to this.

Deception in this regard comes from one who says: "Honey is permissible, and intoxication from honey (e.g., *muṣarrah* honey) is then also permissible." Such a person is a liar because they are referring to an exact entity that Allāh, exalted be He, has named *khamr*, and all *khamr* is prohibited. This deceiver assigns it a different name to make it *ḥalāl* and this is what the Prophet warned against.

It is attributed to the Messenger of Allāh that he said, "Some people from my nation will drink *khamr*, calling it by another name." 68

We will clarify the truth, and then, by the will of Allāh, we will mention some of the verses they disputed. When something is clarified with an example, it is easier to understand.

Among these is the saying of the Almighty, "And ask the town in which we were and the caravan in which we came, and indeed we are truthful" [Yūsuf: 82]. Some people said that this verse means, "Ask the people of the town and the people of the caravan," while others said that Ya'qūb is a prophet, so if he asked the caravan and the town themselves, they would respond to him."

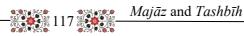
We say: Both are possible.

And among them is the saying of the Almighty, "A wall willed to collapse" [Al-Kahf: 77]. We know by the necessity of 'aql (reason) that a wall has no consciousness, and will only exists in conscious living beings. This is the known form of will upon which the term 'will' is based in the language. When we find that Allāh, exalted is He, has attributed this quality to the wall—which lacks anything that necessitates this designation—we know with certainty that Allāh, exalted is He, has changed the meaning of 'will' in this place to indicate the inclination of the wall and has referred to this inclination as 'will.'

And we have already established that Allāh, exalted is He, names what He wills as He wills. However, this does not necessitate altering the realities that He has established in His creation from their proper ranks, nor does it require transferring any term to a context other than that in which the Creator, exalted is He, has transferred it.

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⁶⁸ Sunan al-Nasā'ī 5658, 8/312



If not for the necessity we have mentioned, we would not have allowed to rule a word as transferred from its original meaning at all.

Abū Bakr Muḥammad ibn Yaḥyā al-Ṣūlī recited in relation to the transfer of the term 'will' from its linguistic place to another meaning, the words of al-Rāʿī al-Namīrī, "The axes' anxiety when they are about to strike."69

And Abū Bakr al-Sūlī, may Allāh have mercy on him, mentioned that ibn Faras the writer, who was an atheist (dahrī), asked him about that verse (about the wall). Abū Bakr replied with this verse of poem (about the axe).

Some people said that the Almighty is capable of instilling will in the wall. Then indeed He is capable of whatever He wills, and everything that can be seem problematic in thought, he is capable of that. However, everything for which we do not have a text indicating that He, exalted is He, broke the established norms (supernatural), is false, just as any claim made without evidence is false.

Likewise, His saying, exalted is He, "And it (the ship) flowed with them through waves like mountains" [Hūd: 42], He, exalted is He, called the movement of the ship 'flowing,' and (it is) the movement of the ship is out of necessity. This is part of what we said, that He, exalted is He, names what He wills as He wills, for He is the creator of names and the named, glory be to Him, there is no god but Him.

And His saying, exalted is He, "Their hearts absorbed [the worship of] the calf because of their disbelief" [Al-Bagarah: 93]. He only meant, exalted is He, the love of the calf, based on what we mentioned, from the hadhf which settled on the place of another word.

And His saying, exalted is He, "On the Day We will say to Hell, 'Have you been filled?' and it will say, 'Are there any more?'" [Qāf: 30]. This, in our view, is literal, and it is made to speak.

Some have argued against us with Allāh's saying, "Indeed, We offered the trust to the heavens and the earth and the mountains, and they refused to bear it and were afraid of it" [Al-Aḥzāb: 72]. This is also real according to us. Allāh Almighty placed in it the ability of discernment the moment he gave them the choice. When they refused to bear the rulings and

⁶⁹ Lisān al-'Arab 3/187



were afraid of bearing the trust, He took it away from them and the burdens were lifted from them.

It is also possible that the meaning was transferred from its original literal sense, such that the statement means they did not bear it because Allāh did not place within them the ability for discernment, intellect, or a soul that chooses and distinguishes.

This usage exists in the language and poetry of the Arabs. For instance, when the Arabs wish to praise, they say: "Your nobility refused this," and when they wish to criticize, they say: "Your vileness refused this." What they mean is that nobility is incompatible with such an action because it contradicts it, and similarly for vileness: it is incompatible with nobility because it opposes it.

Based on this, the refusal of the heavens and the earth should be understood in this way—not as something other than this. However, the first understanding is most correct, and it is what we take.

We only make a difference between this and what we said earlier about the giving the ability of speech to the Hellfire because all the words of Allāh Almighty are for us clarified and in line with what the *Ma'hūd* obliges through the understanding of our 'aql and senses. We only said this due to the words of Allāh Almighty, "And made for you hearing, sight, and hearts; little do you give thanks" [As-Sajdah: 9] And Allāh encouraged us to reflect and ponder over the Qur'ān and informed us that it is a clarification for us, and all of this must be according to what our 'aql distinguish, not what contradicts it.

Since this is established and leads us to understand that the heavens are inanimate and lack 'aql, that the earth is the same, that the limit of speech is the ability to discern matters, and that discernment only exists in the living, and that the living is the one who is sensitive and moves with will, and that the discerning being is a part of what is alive, not all of it, and that discernment is defined as the capacity to know things as they truly are and the ability to engage intentionally in various tasks—then it is clear to us that none of these attributes belong to the earth, the heavens, or the mountains.

It also is clear to us that these words, which Allāh Almighty has informed us of regarding these non-living entities, are words that have been changed from their ma $h\bar{u}d$ meanings to other meanings, pertaining to the qualities of these entities as they exist upon $haq\bar{u}qah$.

Whoever departs from this path has confused matters and attempted to extinguish the light of Allāh Almighty that He has placed within us.

In short, whoever seeks to remove matters from their realities in principles and then in $haq\bar{a}$ iq, he must be suspected either in their religion or in the corruptness of their intentions. If they are free from such suspicion, then they must either have a deficiency in their 'aql or severe ignorance.

However, all of this does not oppose the first view because the ability of speech that Allāh Almighty had placed in them at that time was removed from them when they refused to accept the trust.

The objection to all of this only arises against those who claim that the utterance which Allāh placed in them remains present in them to this day. This is undoubtedly false based on what we have clarified, and success is from Allah Almighty.

A man among the Mālikiyyah named ibn Khuwayz Mindād said that stones have intellect and perhaps his discernment is close to that of a stone. Verily, Allāh has compared people who have deviated from the truth to cattle, and Allāh has spoken the truth when He decreed that they are more astray than cattle. For cattle do not go beyond what their Lord has arranged for them: seeking sustenance and desiring the continuation of their kind and avoiding corruption after their existence.

These creatures have been arranged by their Creator, the Almighty, to recognize His power and that it is different from the power of the created, and to understand the status of what has been created as it is. However, they deviated from that purpose. Whoever likens the power of their Lord to that of the created or tries to impose their own 'aql to judge in this manner, Allāh is far above what the oppressors say, exalted and great.

Whoever corrupts the arrangement of the created beings and strives to invalidate their limits, thus undermining their role in proving tawhīd, Allāh said: "Every group rejoicing in what it has" [Ar-Rūm: 32]. Everyone will be returned to the One who knows the unseen and the seen, and He will judge between us regarding what we differ on. By Allah, the regret of those who have limited their share of religion and knowledge to merely supporting the opinions of a specific individual will be long-lasting. They are indifferent to the truths they distort in that misguided path. We seek refuge in Allāh from being misguided.

This *jāhil* said: "Indeed, the evidence that stones have intellect is the verse: 'For indeed, there are stones from which rivers burst forth, and there are some of them that split open and water comes out, and there are some of them that fall down for fear of Allāh' [Al-Baqarah: 74]. Since Allāh mentions some stones falling out of fear of Him, it indicates that stones have intellect or speech."

It is astonishing that this person uses his 'aql to conclude that only those with 'aql fear Allāh. Why didn't he use the 'aql to observe with his senses that stones do not have 'aql? How can stones have discernment or 'aql when Allāh has compared the hearts of disbelievers, who do not submit to Him, to stones in their refusal to accept the truth? Allāh has negated knowledge from stones by likening them to the hearts of disbelievers, who are stubborn in their rejection of His guidance. How, then, can stones possess 'aql or discernment?

If someone asks, "What is the meaning of attributing fear to stones?" we say, with the help of Allāh, that Allāh has arranged names in accordance with what they signify and made this a means for understanding. Without such an arrangement, there would be no comprehension, and we would not be able to understand His rulings, His intent behind His orders and prohibitions, or the information He conveys to us. Allāh has granted us discernment to identify the attributes of created things, assigning names to these attributes so that we can refer to and understand them.

One of the arrangements in the Arabic language is that we attribute 'discernment' (tamyīz) to a person who understands, speaks, asks about complex matters, receives answers, comprehends them, and is asked about what they have learned. Such a person responds, narrates what they have seen, witnessed, and heard, is instructed to speak, and is prohibited from various actions, all while understanding what is required of them.

Allāh has also established for us that if someone lacks these attributes, they are called 'non-discerning' (*ghayr mumayyiz*). If such a being is an animal other than angels, *jinn*, or humans, we call it a 'living' being but one without discernment. If it is not from among the animals, we refer to it as an inanimate object, lifeless, whether it is a tree, stone, earth, water, fire, air, or anything else.

And Allāh Almighty has established these arrangements within us by placing discernment in us. This affirmation has reached the point where

denying any part of it could lead to the removal of *hudūd* from such a person, the inability to seek qiṣāṣ if they commit murder, and the nullification of rulings. The individual would then be treated as someone who is not addressed by obligations due to a lack of 'aql and discernment. If this condition worsens, it is not unlikely that they may become corrupt, requiring their brain—being the source of perception and movement—to be treated with various unpleasant forms of therapy.

As we are certain that the attributes described by Allāh Almighty as 'discernment' are not present in stones, it necessitates that they are nondistinguishing (ghayr mumayvizah).

And also Allāh validated the statement of His friend Ibrāhīm when he said: "O my father, why do you worship what does not hear, see, or benefit you at all?" [Maryam: 42] And he would only worship stones. So the text establishes that they do not understand or reason.

As we see that Allah Almighty described them with fear in other verses, we understand that this word has been changed from original place in the language, from there, towards a description of a different aspect of stones, However Allāh willed. This fear does not exit this jumlah we have clarified ever. This is the manner fear (khashyah) is attributed to the stones: Khashiyah by the ma 'hūdah' is fear from the threat of Allāh and following his orders and the stones are free from any of that description. How can something that is neither ordered nor prohibited experience fear, when it is neither burdened with responsibility nor threatened with anything? And what would it fear other than punishment? Yet, there is no punishment except for the disobedient, and there is no disobedient except one who is ordered. Stones are not ordered anything, so they are not disobedient, then there is no punishment for them. So they do not possess any khashyah that is ma 'hūdah with us. And also, nothing has discernment $(tamy\bar{t}z)$ except what is living, and stones are not living, so they do not possess tamyīz (discernment).

And from what we mentioned about the change of some words to places other than their original meaning in the language is the saying of the Messenger of Allāh, about the horse, "If we find it, it is like a sea," so he used the word 'sea' to describe the noble horse.

⁷⁰ Sahīh al-Bukhārī 2627, 2862, 2867, 2968



And also when the Prophet said, "Be easy with the glasses,"⁷¹ he meant the women, so this is a change of the word glasses from its original place in the language from glasses to women.

Similarly is the saying of Allāh, "Glasses from silver" [Al-Insān: 16].

And His saying, "Crystal clear glasses of silver, measured out in due proportion" [Al-Insān: 15], this too is a transfer of the meaning of *qawārīr* (glasses) from its original context in the language—referring to glass—to that of silver. However, it is not permissible for any Muslim to claim that a word, for which no text (*naṣṣ*) or sensory necessity (*ḍarūrah ḥiss*) exists, has been from its original meaning in the language. Such a change is only permissible when established by textual evidence or sensory necessity. Otherwise, the word remains in its original place within the language, as Allāh or His Messenger have not changed it.

The astonishment increases from the one that claims fat (shahm) is called 'dew' $(nad\bar{a})$, and when asked where this came from, they recite a verse of 'Amr ibn Ahmad al-Bāhilī, "Like a heap of fine sand, the dew strikes it ... the dew rises on its surface and then trickles down."⁷²

This then becomes, decisive evidence against its opponent. However, they do not use as evidence that young women can be called $qaw\bar{a}r\bar{\imath}r$ (glasses), that a noble horse can be called bahr (sea), or that fear (khashyah) can signify being under control. This is because the Creator of all languages and their speakers—and His Messenger—have applied these words to these meanings. And also, the most eloquent of the Arabs have referred to women as $qaw\bar{a}r\bar{\imath}r$ (glasses) and a horse as bahr (sea). They have used the exact evidence they abandoned.

By my life, if the Prophet ** would have said that before he reached age forty, before he became a Prophet, then it would have been the greatest evidence for his eloquence and his knowledge of the language of his people. And he is from the intermediate of Quraysh and was nursed by Banū Sa'd ibn Abī Bakr ibn Ḥawāzin, by that combining the eloquence of the two groups: Khandaf and Qays, the people of Tihāmah and the highlands, to whom the eloquence of the Arabic Ismā'ilī language has been attributed. Without a

⁷¹ Şaḥīḥ al-Bukhārī 6210 | Şaḥīḥ Muslim 2323

⁷² Diwan 'Amr ibn Aḥmad Al-Bāhilī 21 | Al-Ṣiḥāḥ 1/45

doubt, the Prophet is more eloquent than Imru' al-Qays and Al-Shammākh and Hasan al-Baṣrī, and more knowledgeable in the language of his people, more than al-Asma'ī, Abū 'Ubaydah, and Abū 'Ubayd. There is nothing more misguided than to use the words of these people as evidence in the language while neglecting the words of the Prophet. And how could this be when his Lord, exalted be He, has added to him infallibility, protection from error in speech, divine support, prophethood, and undeniable truth accompanied by miracles and signs? This alone suffices for anyone with the slightest sense of 'agl. How could it be thought that the Prophet would convey something from his Lord, exalted be He, that we are burdened to understand, which is contrary to what is understood by the 'aql and sense. Nothing like that can be attributed to him except an infidel in the religion, a deceiver.

The most astonishing thing is that these people come to the linguistic words and change them from their places without certain decisive evidence, claiming that the meaning of His words, exalted be He, "And purify your garments" [Muddatthir: 4] is not the worn garments, but rather the heart. Then they come to words that have been established necessarily as moved from their place in the language to another meaning, such as the word fear describing stones, and they say this word here is not moved from its place, denying the truth, seeking to extinguish the light of truth, and pleasing the eyes of the infidels and deceivers of this religion. But Allāh refuses except to perfect His light. And with Allah is the success.



Section: Tashbīh

Tasbīh (resemblance) between similar things/rulings is real and observable. If Allāh, the Almighty, or His Messenger likens one thing to another, it is truthful, real, and serves as an indication of great power. This is because no two things in existence are completely different; they do not cease to share some similarities in certain aspects while differing in others. Allāh says: "You do not see in the creation of the Most Merciful any inconsistency" [Al-Mulk: 3]. And this texts about what we have said of the absence of inconsistency, because tamāthul (similarity) is the opposite of tafāwut (inconsistency). As inconsistency is invalidated, similarity is affirmed (in everything that exists).

For this reason, it is essential for people to understand the limits of speech and clearly define the attributes through which entities are described. This knowledge has been undermined by some idiots who have attempted to invalidate it. However, and far away id realities from being invalidated.

If someone were to argue: "The Prophet likened the debts owed to Allāh to the debts owed to people in the obligation of their settlement, yet you do not claim that prayers must be made up for a deceased person," the response—by the aid of Allāh, the Exalted—is as follows: By the grace of Allāh, we are people who uphold obedience to this narration and others. False claims have been made against us by those who assume that we understand this narration or others with desires, not texts.

We say: Fasting, *Ḥajj*, vowed prayers, forgotten prayers, and prayers missed due to sleep must all be made up. However, as for obligatory prayers deliberately abandoned, or fasting from Ramaḍān intentionally neglected, the one who failed to perform them cannot make them up. Such a person is not obliged to compensate for those prayers or fasting even if they were sins, many sins do not have compensations; instead, they bear the sin of their negligence, and their matter is left to Allāh, the Exalted. Then no compensation is due on their behalf, and success lies with Allāh alone.

This inconsistency is one of the strange behaviors of these people. They assign the same ruling to matters that Allāh, the Exalted, and His Messenger did not liken to one another, claiming a resemblance where none exists. Such as when they say that mahr in marriage must not be less than the value required to cut off a thief's hand, even though no one with 'agl finds any similarity between theft and marriage. Then, they turn to matters where Allah has explicitly established similarity and equality, only to reject this equality. As they argue that the debts owed to people are settled on behalf of the deceased, but debts owed to Allah, the Exalted, are not. Is there any greater misstep into falsehood than this?

What we have stated regarding majāz (metaphor) and tashbīh (resemblance) represents the truth, indicated by the evidences we mentioned. We have left no opportunity for anyone fair to find fault. Success lies with Allāh alone.

As for those who stir up disputes, they are like those lost in a desert. Our obligation, with the aid of Allah, is to clarify the straightforward path and make it evident, so that by the grace and power of Allah, no clearer or shorter path can be found. All praise is due to Allāh, Lord of the Worlds. Allāh guides whomever He wills to whatever He wills. Success is with Allāh, and He is sufficient for us and the best disposer of affairs.



Chapter Eighteen: The Actions of the Prophet And His Silent Acknowledgment of What He Witnessed or Was Informed Of Without Ordering or Prohibiting Regarding It

A group among the Mālikiyyah stated: "The actions of the Prophet $\stackrel{\text{def}}{=}$ are obligatory, and they are an affirmation $(ta'k\bar{t}d)$ of his orders."

Others among the Hanafiyyah said: "His actions are equivalent to his orders."

Another group, from both of these schools and the Shāfi 'iyyah, said: "The actions of the Prophet are contingent (mawqūfah) upon evidence. If evidence indicates that an action is obligatory, it is ruled in that manner. If evidence shows that it is recommended (nadb) or permissible, that understanding is followed." Among those from the Shāfi 'iyyah who held this view are Abū Bakr al-Ṣayrafī and Ibn Fūrak.

The remaining ones from the Shāfi 'iyyah and all companions of the $z\bar{a}hir$ (ahl ul- $z\bar{a}hir$) said, "Nothing from the actions of the Prophet are an obligation, we only rule as nadb to follow the Prophet only, we do not leave it with the meaning of raghbah against it, but without the meaning of raghbah. But we leave it like everything else we leave what is ruled as nadb, from that which if we do it, we are rewarded and if we leave it, we do not sin and are also not rewarded. Except what is in his actions clarification of an order or tanfīdh (carrying out) of a ruling, it is then an obligation. Because an order has preceded it, so it is then a clarification of an order."

This is the correct saying and nothing else is permissible.

Those that say his actions are an obligation and that it has more tawkīd than orders use as evidence the narration of Miswar ibn Makhramah and Marwān ibn al-Ḥakam that the Messenger of Allāh set out in the year of al-Ḥudaybiyyah. They mentioned the lengthy hadīth, and when they finished the story of the book: "The Messenger of Allāh said to his companions, 'Get up and slaughter your sacrifices and then shave your

heads.' By Allah, none of them stood up, even after he said it three times. When no one got up, he went to Umm Salamah and mentioned to her what he had encountered from the people. Umm Salamah said, 'O Messenger of Allāh, do you wish that? Go out and do not speak to any of them until you have slaughtered your sacrifice and shaved your head.' So he went out, slaughtered his camel, and called for his barber. When they saw that, they got up, slaughtered their sacrifices, and began shaving each other's heads to the extent that they were close to killing each other out of sorrow."⁷³

We do not know a single *hujjah* more against them than this narration which they used, because the one Allah obliged us to obey and ordered us to follow is the Prophet ** who rejected against them delaying what he ordered them and did not order them to follow those who opposed him until they did what he had ordered them. Those who troubled him until he began to complain about what he faced from them, and those who followed the actions of people and abandoned the order of their Prophet , and acted upon what he had disapproved of, not paying attention to the order of their Prophet , and approved the actions that angered him deliberately, have gone astray and we do not trust them to remain in Islam. Let it be known.

Let it be known that the actions of ahl ul-hudaybiyyah may Allāh be pleased with them was a mistake and a disobedience, but they are forgiven with certainty because of the text in it that no one that witnessed badr and al-Hudaybiyyah will enter the fire⁷⁴.

Others from them were not like that, it is not allowed for a Muslim to follow them in that, every upright has a slip, and every 'Ālim has a mistake in judgment. From any upright some of their saying and many of their sayings and actions are rejected except the Prophet ...

Whoever follows ahl ul-hudaybiyyah in this action which the Prophet rejected has become ruined because they are assured for forgiveness in that, but others are not assured for that. Some of them themselves acknowledged that they made mistakes in this specific case even.

Abū Wā'il said, "Sahl ibn Hunaid at Siffīn saying, 'O people! Blame your ra ī in your religion. No doubt, I remember myself on the day of Abī

⁷³ Sahīh al-Bukhārī 1694, 1811, 2731, 2732, 479

⁷⁴ Sahīh Muslim 2496



Jandal; if I had the ability to refuse the order of Allāh's Messenger I would have refused it."⁷⁵

And the day of Abū Jandal is the day of al-Ḥudaybiyyah, Sahl, May Allāh be pleased with him as acknowledged that they wrongly used $ra'\bar{\imath}$ on the day of al-Ḥudaybiyyah, such that if they would be able to reject the order of the Prophet $\stackrel{\text{\tiny{se}}}{=}$ they would have done so.

Miswar ibn Makhramah and Marwan ibn al-Ḥakam mentioned the narration of Hudaybiyyah. And in it, 'Umar ibn Al-Khattab said, "By Allāh, I have never doubted since I embraced Islām except on that day. So I went to the Prophet , and said, 'Are you not truly the Messenger of Allāh?' He said, 'Yes.' I said, 'Are we not upon the truth and our enemy upon falsehood?' He said, 'Yes.' I said, 'Then why are we given the world in our religion then?' He said, 'I am the Messenger of Allāh and I do not disobey Him, and He is supporting me.' I said, 'Did He not promise us that we would come to the House and perform tawāf around it?' He said, 'Yes.' I said, 'Did He tell you that you would come this year?' He said, 'No.' He said, 'You will come and perform tawāf around it.' He said, 'So I went to Abū Bakr and said, 'O Abū Bakr, is this not truly the Messenger of Allāh?" He said, 'Yes.' I said, 'Are we not upon the truth and our enemy upon falsehood?' He said, 'Yes.' He said, 'Then why do we give the world in our religion?' He said, 'O man, he is the Messenger of Allāh and he does not disobey his Lord, and He supports him. So hold fast to his guidance until you die. By Allāh, he is upon the truth.' I said, 'Did he not tell us that we would come to the House and perform tawāf around it?' He said, 'Yes.' I said, 'Did he tell you that you would come this year?' He said, 'No.' He said, 'You will come and perform tawāf around it.' Al-Zuhrī said, 'Umar said, 'So I did acts for that purpose." 76

'Umar never doubted after he embraced Islām in the validity of Muhammad's, prophethood , and Allāh protected him from thinking such a thing. But he doubted the obligation of following what was ordered, like shaving and sacrificing, and concluding the matter between him and Quraysh. He then regretted it, as you see, and did acts of penance for what had previously occurred. He now supports what he previously doubted, and those misguided by Allāh with false claims, and others not from Ḥudaybiyyah,

⁷⁵ Sahīh al-Bukhārī 7308

⁷⁶ Al-Muşannaf by 'Abd Al-Razzaq 10564, 6/22

commit great sin. But they are forgiven by the testimony of the Prophet except the owner of the red camel⁷⁷.

And ibn 'Abbās said, "It was said, 'O Messenger of Allāh, why did you support (by supplicating for) those who shave (their heads) three times and those who cut (their hair) only once?' He said, 'Because they did not doubt.",78

They did not doubt the obligation of carrying out his order, but the hesitant ones had doubts and were punished as you see. Even though they were all forgiven, and similarly those who fled from the battle on the day of Uhud, Allāh declared that Satan had merely provoked them due to some of what they had earned, then Allah declared that He had forgiven them. So whoever follows them in fleeing from the battle will not attain what they obtained of forgiveness but will incur the wrath of Allāh.

There is no astonishment worse than by someone who follows the people of Hudaybiyyah in a sin they committed, which they regretted and admitted was disobedience, but then they prohibit following them in an action they all performed that was in accordance with Allah's pleasure and the pleasure of His Messenger so on slaughtering the camel on that day for ten people and the cow for seven people by the order of the Messenger of Allāh صَلَالِهِ مُسَلِّدُةً

They slaughtered seventy camels for seven hundred people, excluding the cows. Yet, these people say it is not permissible to follow them in this matter, but they urge taqlīd of them in a sin they committed and repented from. Is there anything more distorted in reversing the realities and openly speaking falsehood than these two sayings? We seek refuge in Allāh from misguidance

And from the astonishments that cannot be understood except as ridicule against the religion is ibn Khuwayz Mindād al-Mālikī, using as evidence for the obligation of following the actions of the Messenger of Allāh # the narration of the Anṣārī who kissed his wife while he was fasting, and then he ordered her to seek a fatwā from Umm Salamah, then the Prophet # came and found the women and he asked her about it, then Umm Salamah told about her question. Then the Prophet said, "Did you not tell her that I

⁷⁷ Sahīh Muslim 2780

⁷⁸ Sunan Ibn Mājah 3045 | Al-Musannaf by ibn Abī Shaybah 13618, 3/220 | Sharh Ma'ānī al-Āthār 2/255-256



do that?" Then she said, "I did that but it increased him (he husband) in fault, as he said, 'It is allowed for the Prophet * to do what he wants," then the Prophet got angry and said, "By Allāh, I am the one with the most *taqwā* of Allāh of you all, and of you all the one who best of what I avoid."

And indeed, Ibn Khuwayz Mindād uses this narration as an evidence to oblige the actions of the Prophet , while he does not believe in it, does not recommend it, nor permits it. Rather, he dislikes kissing for the fasting person, shuns the action of the Prophet in this regard, and shows displeasure towards Allāh and His Messenger due to his aversion to what the Prophet used to do. This is one of the atrocious signs. He does not consider this act obligatory, recommended, or unrestricted, yet he uses it to argue for the obligation of his actions in it.

There is no wonder in one who allows his tongue to utter such shameful speech, as he is devoid of decency, shyness, and fear, and does not care about sin or disgrace. What is astonishing, however, is those who hear it, accept it, write it, and approve of it, finding it praiseworthy. Indeed, to Allāh we belong, and to Him we shall return, lamenting the loss of knowledge and its disappearance

We belong to Allāh and to Him we shall return, on the decline of knowledge and its departure.

Verily this narration that was mentioned is the greatest evidence that the actions of the Prophet are not obligatory, and only recommended and encouraged. Those who abandon it with a *raghbah* (*zuhd* against it) against it are sinful like ibn Khuwayz Mindād and the likes of him, for their aversion to the Prophet saction of kissing while fasting. One who leaves it without desiring it is not sinful nor rewarded. However, one who does it, following the Prophet is rewarded as in the narration. Praise be to Allāh, Lord of the Worlds.

Those who say, "The actions of the Prophet are like his orders," use as evidence by saying, "We are ordered to follow the Prophet because of the verse, 'So believe in Allāh and His Messenger, the unlettered prophet, who believes in Allāh and His words, and follow him (have *ittibā*) that you may be guided [Al-Aʿrāf: 158] this is an obligation on us to follow him, his actions and orders are then the same."

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⁷⁹ Muwattā' Mālik 1020, 3/415

We say: From ' $ittib\bar{a}$ '' it is not understood following the act in the Arabic language at all, what is understood from $ittib\bar{a}$ 'of him is only obeying the orders of the Prophet $\stackrel{\text{\tiny{de}}}{=}$ and obedience to what he knows from His Lord, the Prophet $\stackrel{\text{\tiny{de}}}{=}$ clarified this when he said, "Whoever does an act that is not from us, it is rejected."

And also the saying of the Prophet \$\mathbb{\sigma}\$, "Everyone will enter paradise except the one that refuses. The one that obeys me enters the paradise and whoever disobeys me has refused." \$\mathbb{\sigma}\$0

Disobedience is only opposition of an order, not abandoning following a mere act. It has never been understood in the Arabic language that the one that abandons following an act is described as disobedient. Except after he was ordered to follow that. The Prophet only made an exception of entering *jannah* from the one that opposes the order only, so what remains is the one that does not follow an act without *raghbah* against it that he enters *jannah*. So it is established that he is not disobedient, and as he is not disobedient then he has not abandoned an obligation. So it is established that following an act is not obligatory. And also no Arab has ever understood from a *khalīfah* saying, "Follow this order of mine," that he orders him to do as he does, while from it nothing other than obedience to the orders only is understood.

And also, no one differs on the mere actions of the Prophet ## that it is not an obligation. It is impossible for it to be like that and at the same time an obligation, this is in reality the opposite of following.

Some of them have also used as evidence the verse, "Whatever the Messenger gives you, take it. And whatever he forbids you from, leave it" [Al-Ḥashr: 7].

There is no evidence in this for them because 'giving' $(\bar{\imath}t\bar{a}')$ in the Arabic language is only $\bar{\imath}'t\bar{a}'$. And an action is not given, what is given are orders only. Especially since he has followed that prohibition.

Allāh only threatened opposition to the orders when he said, "So let those beware who dissent from his order, lest fitnah strike them or a painful punishment" [An-Nūr: 63].

Some have said, "The pronoun in that verse for, 'His order,' refers to Allāh. So only the orders of Allāh are an obligation not the orders of the Prophet."

⁸⁰ Sahīh al-Bukhārī 7280



We say: This is false as the order of the Prophet is the of Allāh himself, Allāh said, "He does not speak of desire, it is only a revelation revealed" [An-Najm: 3-4] His speech is all (including orders) from Allāh.

This verse is sufficient to show that what is obligatory are the orders alone, not the actions. This is because Allāh informed us that revelation from Him is the speech, and speech is the order. As for actions, they are not referred to as speech at all. So, it is established that all his actions are either permissible or recommended, not obligatory, except in cases where his actions clarify an order.

And Some of them claimed that the meaning of "his order" (*amr*) in that verse refers to his state or condition, as one might say, "The state (*amr*) of so-and-so today is upright," or "his condition (*amr*) is crooked," meaning his state, and that by that his actions are then an obligation

This is invalid because this verse obligates what was mentioned prior to it, which is the order (the speech). Allāh, the Most High, said, "Do not make the calling of the Messenger among you like your calling of one another. Allāh knows those of you who slip away under cover. So let those who oppose His command beware, lest a trial afflict them or a painful punishment befall them" Sūrah al-Nūr: 63].

So it is established that this threat pertains to His orders.

And likewise, the Prophet $\stackrel{\text{def}}{=}$ did not give the $adh\bar{a}n$ for any voluntary prayers, such as the two ' $\bar{i}d$ prayers or the eclipse prayer, in order to distinguish between action and order. Because if they had been called to prayer, it would have been an order, and the order is an obligation.

ʿĀʾishah, the Mother of the Believers, said, "The Messenger of Allāh did something that we took permission for, and this reached some of his companions, and they seemed to dislike it and avoided it. When he heard that, he stood up to address them and said, 'What is it with men who hear about an action I permitted and dislike it and avoid it? By Allāh I am the most knowledgeable among them about Allāh and most fearful of him." "81

This is a clear text that the Prophet did not reject them leaving doing the act he did, so it is established that it is not obligatory, if it would be obligatory he would have rejected it as they would have abandoned an obligation. Instead he only rejected their rejection of it, and making *tanazzuh*

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⁸¹ Şaḥīḥ al-Bukhārī 6101, 7301 | Ṣaḥīḥ Muslim 2356

of it, this is the *munkar*. And he rejected them abandoning his order, so the difference is established between actions and orders for the one that has 'aql.

The Prophet also said as we have mentioned before, "Leave me as I leave you, for those before you were only destroyed by their many questions and their differences from their Prophets, whatever I prohibit you, stay away from it, and whatever I order you do from it what you are able to."

This is a narration narrated with tawātur transmission from Abū Hurairah. The Prophet did not oblige anyone except what they are able to from what he has ordered them, and to stay away from what he prohibited them only. It is not allowed at all in the Arabic language for someone to say, "I ordered you through what I did." And he invalidated (the obligation) of other than that and he ordered them to leave him as long as he leaves them.

We also know with necessity senses and witness that the Prophet # and every living on earth does not cease any moment from an act, either sitting, walking, standing, laying, sleeping, eating, laying and other actions. The Prophet # omitted (the obligation) from us all of that and ordered us to leave him in that (ruling it obligatory), except what he orders us or forbids us from only. So it is established with certainty that actions from the Prophet # are not obligatory on anyone, there is only imitation of it due to the previous verse mentioned only.

So it is established with the narration of before that there is no *hujjah* in the action of all companions, nor in the saying of anyone of them because they disliked what the Prophet # did, they intended with that good in their ijtihād, and the Prophet # rejected that. So it is established that there is no hujjah except what comes from the Prophet # only. And also by all other narrations we mentioned before. Allah only recommended us following the actions of the Prophet # with his saying, "There has been for you (lakum) in the Messenger of Allāh a great example" [Al-Aḥzāb: 21].

Anything that is for us $(lan\bar{a})$ is a permissibility only (if those words are used). Because the words of obligation is only 'alaynā not lanā. We can say, "You must ('alayka) pray five times, and fast the month of Ramadān," and "You can (laka) fast the day of 'ashurā', and give charity voluntarily."

It is not possible for anyone to say in the Arabic language (intending recommendation), "You must ('alayka) fast the day of 'ashurā' and give charity voluntarily and you can (laka) pray the five prayers and fast the month



of Ramadān." This is something that cannot be understood otherwise in the language in which Allāh has addressed us.

Some of them said, "Allāh said after that statement in the verse, 'For anyone whose hope is in Allāh and the Last Day' [Al-Aḥzāb: 21] this is a clarification that it is an obligation because this is a thread."

We say: This is a false ta ' $w\bar{l}l$ because the recommended following mentioned in the verse is only for (with the letter $l\bar{a}m$ as just mentioned) the mu ' $min\bar{n}n$ who have hope in Allāh and in the last day. Allāh did not say, "It is upon those ('ala) whose hope is in Allāh and the Last day." As for the $kuff\bar{a}r$ whose hope is not in Allāh and the last day, they turn away from following the Prophet #.

And similarly is the saying of the Prophet #, "I fast and I break my fast, and I marry women, whoever has *raghbah* against my Sunnah is not one of me."

The Prophet \cong spoke the truth that whoever abandons his actions with raghbah against it by means of tanazzuh or $istikhf\bar{a}f$ or diminishing its state is a $k\bar{a}fir$, as for the one that abandons without having raghbah against it but by limiting everything to the obligations, lightens his load of voluntary acts, but acknowledges that he is leaving much virtue, such a person has succeeded, as the Prophet \cong said to the Bedouin who took an oath not to add anything beyond the obligatory duties, "He has succeeded, by Allāh."

There is in the narration sufficient clarification that the orders are obligations and that the actions of the Prophet are not obligations and that the Bedouin only asked the Prophet what he had ordered not what he did, then he took an oath not to do anything other than that, then the Prophet ruled his saying correct and good. This is sufficient for the one with are the Prophet did not oblige him to follow his actions, there is no problem in this.

Rather, the Messenger of Allāh * rebuked his companions for obliging imitating his actions.

Abū Saʻīd al-Khudrī said, "The Messenger of Allāh led us in prayer, and after he had prayed, he took off his sandals and placed them to his left. So the people took off their sandals. When he finished his prayer, he said, 'Why did you take off your sandals?' They said, 'We saw you take off your

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⁸² Şaḥīḥ al-Bukhārī 5063 | Şaḥīḥ Muslim 1401

⁸³ Sahīh al-Bukhārī 46, 1891, 2678

sandals, so we took off ours.' He said, 'I did not take them off because of any harm, but Gabriel informed me that there was filth on them. So if any of you comes to the masjid, let him look at his sandals, and if there is any filth on them, let him wipe them off."84

This is an upright one from the companions, Abū Saʿīd al-Khudrī, who witnessed that the Messenger of Allah disapproved of them obliging imitation of his actions, and by that invalidating all ta'allul after this, and it is then clear that only his orders are obligatory. And the actions of the Prophet are all recommended without any exception except what he specified, as in the narration.

Only a group of Mālik's companions clung unto what we mentioned, believing themselves to be the most diligent of people in following the actions of the Prophet , yet they are the most abandoning creature of Allah to the actions of the Prophet 3.

They abandoned his action sin prayer when he prayed with people behind him standing or sitting. They also abandoned his action soft entering and leading the prayer after Abū Bakr had already started leading the people in prayer.

They permitted istikhlāf (appointing a substitute imām) in cases for which there is no text or $ijm\bar{a}$. They turned away from the action of the Prophet $\stackrel{\text{def}}{=}$ of wiping over his forelock and turban during $wud\bar{u}$. They also turned away from his action so of pouring water over the urine of a baby boy.

They chose to fast during Ramadan while traveling and turned away with raghbah against his action so of breaking the fast. They turned away with raghbah against his action # of kissing while fasting and physically engaging with one's spouse while fasting, despite the Messenger of Allāh # becoming angry with those who turned away from or avoided such actions. He even delivered a sermon forbidding such avoidance.

They turned away from his action sof reciting Sūrah Al-Ṭūr in the Maghrib prayer. They also abandoned his action so of applying perfume during the Farewell Pilgrimage, instead choosing an earlier (abrogated) action of his, which—if their understanding were correct—would have been abrogated by his latest action .

⁸⁴ Al-Musannaf by ibn Abī Shaybah 7890 | Musnad Ahmad 3/20-29 | Sahīh Ibn Hibbān 2185 | Musnad Abī Dāwūd al-Tayālīsī 2268, 3/612

They abandoned his action $\stackrel{\text{\tiny{def}}}{=}$ of ruling that the spoils (salab) of the killer go to the killer. They also abandoned his action $\stackrel{\text{\tiny{def}}}{=}$ performing prostration during the recitation of Sūrah Al-Najm and Sūrah Al-Inshiqāq. And also, they abandoned the action of all the Companions regarding these two instances, as well as the actions of all who embraced $Isl\bar{a}m$ among humans and jinn.

As for the actions of the Prophet that were carried out to implement orders, they are obligatory. Among these are his statements, "Pray as you have seen me pray," Take your rituals (of hajj/'umrah) from me," his intention to burn the homes of those who do not attend congregational prayer and his lashing of the one consuming khamr.

When the Prophet informed us that blood, property, and honor are sacred and prohibited among Muslims, then he ordered to violate it or expressed intent of violation regarding them in specific cases, we know that this is the truth. As for after the order, it becomes obligatory, not merely permissible, for he does not intend (after that) except what a matter that is a right. As when he ordered the lashing of the one who consumes *khamr*, then his subsequent action is a clarification for the lashing he had ordered.

Likewise, any actions of the Prophet ## that prohibits something or orders something are ruled obligatory. Such as when the Prophet ## moved Ibn 'Abbās from his left to his right during prayer⁸⁸, even though this was an action, it is as an order for Ibn 'Abbās to stand to his right and a prohibition against standing on his left.

As for mere actions, without any implied order, they do not carry the meaning of an obligation

If someone says, "Why don't you say that the Prophet's intention to burn the houses of those who neglected congregational prayer was a mere permissibility, not an obligation, based on your principle that something abrogated (mansūkh) reverts to the nearest rank (marātib), not the furthest?"

It is said (with the help of Allāh): This is indeed our principle—that such matters revert to the nearest rank (*marātib*), except there is evidence that it changes to the furthest rank. But when the Prophet said, "I have been

86 Sunan al-Nasā'ī 3062

⁸⁵ Şahīh al-Bukhārī 644

⁸⁷ Sahīh al-Bukhārī 644

⁸⁸ Sahīh al-Bukhāri 726

ordered to fight the people until they say, 'Lā Ilāha Illa Allāh.' If they say it, their blood and property are protected from me except by right, and their reckoning is with Allāh," and then informed us of his intention to burn the houses of those who neglect the prayer in congregation, we know from the mentioned text that this is a real and obligatory matter to carry out. As he clearly stated that he does not permit blood or property except with right, and such rights are obligatory except if there is evidence indicating mere permissibility.

We have also said that those who claim the actions of the Prophet are always obligatory are the most opposing to this false method. The Mālikiyyah say that the *khuṭbah* of the *Imām* on the day of *Jumuʿah*, comprising two sermons while standing and sitting between them, is not obligatory. Instead, they claim that only one *khuṭbah* is obligatory while no one has ever narrated anything except that the Prophet average gave two, standing, sitting between the two⁸⁹. They did not see his action here upon obligation.

And they say that the order of ablution is not obligatory, yet there is no doubt that the Prophet arranged his ablution and did not reverse it—no Muslim doubts this. They believe that the <code>subh</code> prayer at <code>Muzdalifah</code> is not obligatory and that the <code>Ḥajj</code> of one who omits it is not invalid, even though the Messenger of Allāh prayed it there and announced that whoever did not catch it there has no <code>Ḥajj</code>.

They believe that whoever prays Maghrib before reaching Muzdalifah on the night of sacrifice, his prayer is valid, even though the Messenger of Allāh **delayed it until he reached Muzdalifah and did not pray it except there. They do not rule the stoning of $Jamrat\ al$ -'Aqabah as obligatory, even though the Messenger of Allāh ** stoned it. They do not rule lying down after the two rak 'ahs of (voluntary) Fajr before the obligatory subh prayer to be obligatory, even though the Messenger of Allāh ** always did so consistently, as did the seven $fuqah\bar{a}$ 'of Madīnah and the people of Madīnah. All these matters are ruled obligatory by the majority of the companions, the $t\bar{a}bi$ ' $\bar{i}n$, and the $fuqah\bar{a}$ '. We have only presented these issues to invalidate any claim of $ijm\bar{a}$ 'that they are issues that are not understood as obligatory. If we were to continue enumerating them, there are many more.

⁸⁹ Şaḥīḥ al-Bukhārī 920, 928



If an action and a statement (of the Prophet) seem contradictory, such as if it is narrated that he prohibited something but it is also narrated that he did it with an action of him, then if it is known with certainty that that action of him was after his statement prohibiting that act, the act then abrogates the prohibition. This is because the Prophet does not do anything prohibited, and it is not permissible to say about something he did that it was only specific for him unless, except if there is a text clarifying it, whether it is something he prohibited before or not.

So, it is not permissible for anyone after this to say about anything the Prophet did that it is specific for him except with a text clarifying that it is specific for him, such as the text mentioned regarding the gift by the saying of Allāh Most High, "A privilege for you, not for the [rest of] the believers" [Al-Aḥzāb: 50], and such as his continuous fasting (wiṣāl) and his statement forbidding them, "I am not like you," and such as his sleeping and praying without renewing his ablution. When the Prophet was asked about that, he said, "My eyes sleep, but my heart does not." Without such a text there is not a single indication that it is specific for him, any claim that the actions of the Prophet are specific for him if a prohibition had preceded that act is a mere claim, falsehood, no one is unable to fabricate lies of that level.

So, whatever comes with a clarification as we mentioned, only then it is specific to him. And what does not come with a text as we said, we may follow him in it, and we will be greatly rewarded then. And we may leave it without disliking it, so we will neither sin nor be rewarded.

⁹⁰ Şaḥīḥ Muslim 1110, 79, 2/781

⁹¹ Sahīh al-Bukhārī 1961, 7241

⁹² Sahīh Muslim 738, 125, 2/166

And if the action is known with certainty to be after a prohibition then then the prohibition is abrogated as for when there is no certainty then the prohibition is taken not the action.

Among the things that came as we mentioned is the Prophet \cong prohibiting praying standing when the $im\bar{a}m$ prays sitting 93 , but then he \cong prayed sitting in his illness in which he died, and Abū Bakr prayed standing as a repeater beside him, and he \cong approved that 94 . So we know that this abrogated the obligation of sitting for the one that repeats loudly the sayings of the $im\bar{a}m$ specifically. If he wishes, he may pray sitting, which is better according to us, or if he wishes, he may pray standing, both of which are permissible and good.

Likewise, we say regarding the Prophet # urging to fast on the Day of ⁹⁵ then the Prophet # broke his fast on that day. So we say fasting on it is better for the pilgrim and others, and breaking the fast is permissible and good.

 ${}^{\dot{}}$ A'ishah narrated that the Prophet $\stackrel{\text{\tiny $\%}}{=}$ 96. As he $\stackrel{\text{\tiny $\%}}{=}$ did in standing for prayer at night in Ramaḍān⁹⁷.

We only say this to prevent an ignorant person from claiming, "Is it permissible for the Prophet ** to leave the better and do what is less good?"

We clarified that the Prophet did that out of compassion, as he said that if it were not for some of his companions who would not lag behind him at all and (if) he could not find what to carry them on, he would not have stayed behind from any expedition/*ighārah* he sent in the way of Allāh⁹⁸.

So the Prophet \cong informed that he refrained from the best act of $jih\bar{a}d$ out of fear of hardship on his Ummah, and similarly there are many other examples.

As for when it is not known which of the two rulings came before: the order or the act, then we take from the additional ruling just as we do with the prohibition of the Prophet from drinking while standing and it is narrated from him that he drank while standing.

⁹³ Şahīh al-Bukhārī 647 | Şahīh Muslim 623

⁹⁴ Sahīh Muslim 418, 95, 2/22

⁹⁵ Sahīh Muslim 1162

⁹⁶ Sahīh al-Bukhārī 1128, 1177 | Sahīh Muslim 718

⁹⁷ Sahīh al-Bukhārī 729, 730, 924, 1129, 2011 | Sahīh Muslim 761

⁹⁸ Sahīh al-Bukhārī 36, 2797, 2972 | Sahīh Muslim 1876

And in his prohibition of sleeping on the back (*istilqā'*) and the placing of a foot on foot and it is narrated about the Prophet that he was reclining in any case the *masjid*. So we in these cases take from the additional which is the prohibition in both cases because the *aṣl* is permissibility of reclining in any case and sleeping on the back as a person wishes and the permissibility of drinking in any state, so we are certain that we are moved from this permissibility away to the prohibition in both cases without doubt, then it is not known with certainty whether this prohibition was abrogated or not and it is also not allowed for a Muslim to leave anything he is certain of what has become necessary/obligatory of whether it got abrogated or not. Certainty is not invalidated by doubt and *zann* does not avail against the truth anything. So we are upon that which is established with us that it has become necessary till the one merely claiming comes against us with certain decisive evidence for the validity of his claim otherwise it is invalid.

And likewise we say regarding the narration of the Prophet , "Eat what is in front of you," while it is established that he would follow eating gourd from the sides of the plate 100, there is no difference, and this is while there is not in this narration that the Prophet ate gourd of what is not in front of him, it is possible that he took from the sides of what was in front of him.

And everything we mentioned is only with actions with statements. This is not the case with only statements. If it is narrated that the Prophet made a statement/saying permitting something, and another narration with a saying of him with a general prohibition, except that it is possible to make istithnā' of the (previous) permissibility then it is obligatory to combine both sayings and to make istithnā' of the lesser meaning from the larger meaning. Because a saying is a clear clarification and there is not in actions clarifications of what is intended, not by making takhṣīṣ or others.

The conclusion from this is that when two narrations from the Prophet that are statements/sayings and (seem to) contradict each other, and it is possible to make $istithn\bar{a}$ ' of one from the other, then both must be combined. It is not permissible to do otherwise, and this is whether we are certain of which came first or not. It is not allowed to claim naskh in this case except with evidence that the ruling got replaced from texts, $ijm\bar{a}$ ', or a

¹⁰⁰ Sahīh al-Bukhārī 2092, 5379, 5436

⁹⁹ Şaḥīḥ al-Bukhārī 5376, 5377

 $ta'\bar{a}rud$ by which it is not possible to make istithnā' of one from the other. As for a narration with a saying and a narration with an action, if these two contradict, if the action is before the saying, or if it is not known whether the action was before or after, then the ruling is the statement and then the action becomes abrogated and it is not allowed for the action to become from it an exception. Because it is not known whether the action makes its situation is an exception, or its place or its time. As there is not in an action clarification of 'umum and no clarification of a limit. And if it is known that the action was after the statement, then we make specification of that situation only, because we are of that certain of making exceptions for the situation of the actions, and we are not certain about making exceptions of the time and place by actions. And it is not allowed to rule in the religion with doubts.

Just as we did with what is established that the woman breaks the prayer. But then it is authentically established that 'Ā' isha mentioned that the Prophet would pray while she was in front of him sleeping across his bed like corpse on a bier, do she disliked it to sit and hurt the Prophet¹⁰¹. So it is established with this that the act was after the prohibition because she told that if she would sit that she would have hurt the Prophet . This narration also indicates that it was something that continuously took place. So an exception is made for the situation of reclining woman in front of the one praying from the woman breaking the prayer in other situations (and not the time and place as an act does not clarify that).

And if his actions would be upon obligation, then that would be a taklīf that cannot be hold due to two necessary reasons: Firstly, it would oblige us to place our hands where the Prophet # placed them and to place our feet where he placed it and to walk where he walked to and to look where he looked, all of this is an exit from the 'aql.

And the second point is that most of these actions performed by the Prophet have been clarified, so we would be ordered with what we cannot bear, so every statement in this regard is invalid except what we mentioned about (the recommendation) of following him in his actions.

And as for those who said, "We seek evidence, if we find evidence of the obligation of the action, we adhere to it, and if we do not find evidence, we consider the actions only as recommended to follow," this is essentially

¹⁰¹ Şaḥīḥ al-Bukhārī 512, 997 | Şaḥīḥ Muslim 512, 268 | Sunan Abī Dāwūd 711 | Al-Mujtabā 6/67



our statement, except that we always rule them by default as recommended there is evidence of obligation, and if we find it, we adhere to it, and by Allāh the Exalted is success.

As for a thing the Prophet sees or hears or is informed about and does not deny or order, it is only permissible because Allāh Almighty described him, saying, "Those who follow the Messenger, the unlettered Prophet whom they find written in what they have of the Torah and the Gospel, who enjoins upon them what is right and forbids them what is wrong" [Al-A'rāf: 157].

So if that thing was munkar, he would have prohibited it, and since he did not prohibit it, it is permissible. The permissible is what is right (ma $r\bar{u}f$), and what the Prophet $\stackrel{\text{def}}{=}$ acknowledged is from the good and there is no good except what he acknowledged, and nothing is munkar except what he rejects.

Among such examples is the singing of the two girls in his house while the Prophet was listening and did not disapprove, while Abū Bakr disapproved, and the Prophet rejected of Abū Bakr's rejection 102.

This established our statement by text and obliges the $ink\bar{a}r$ of everything he made $ink\bar{a}r$ of.

Another example is the dancing of the Sudanese, which 'Umar made $ink\bar{a}r$ of, and he, made $ink\bar{a}r$ of 'Umar's disapproval of them¹⁰³.

¹⁰² Şaḥīḥ al-Bukhārī 952, 3931 | Şaḥīḥ Muslim 892

¹⁰³ Sahīh al-Bukhārī 2901 | Sahīh Muslim 893

¹⁰⁴ Sahīh al-Bukhārī 6130 | Sahīh Muslim 2440

¹⁰⁵ Şaḥīḥ al-Bukhārī 3225, 3322 | Şaḥīḥ Muslim 2106

permissible and recommended. We do not dislike them at all; rather, we find them acceptable and even praiseworthy.

Likewise, something that the Prophet # left without prohibiting or ordering is permissible and not makrūh. Whoever avoids it is rewarded, and whoever does it is neither sinful nor rewarded, like one who eats reclining and one who listens to a shepherd's flute. If that would be prohibited then the Prophet would not have allowed it for others, and if it would be recommended the Prophet # would have done it, since the Prophet # abandoned it with dislike we leave dislike it, and do not prohibit it (as he did not prohibit it).

If someone says, "The people slept in presence of the Prophet, "then they prayed, and the Prophet did not order them to repeat their wudū, this is something you do not believe."

It is said: It has never been narrated that the Prophet saw them sleeping, nor that he knew they were sleeping, it has only been narrated in the narration that he delayed 'ishā' till the people slept, and heard snoring, then 'Umar loudly said in the narration, "The women and children slept!" 106

The narration, as you can hear, mentions that the prophet # was absent, not present, 'Umar only made it known about the sleep of the women and the children, these two types are not obliged to attend the congregational prayer.

And also where does the one that uses this as evidence get it from to say, "They slept while sitting, a very short sleep," without it ever being mentioned in that narration, perhaps there were among them those that reclined towards their companion or towards a wall, or a long sleep while reclining, we do not know. The one that was not with them during their sleep does not know how they slept. And the likes of these claims are not allowed for anyone with religion.

Since it is established that the Prophet *was absent, and there has not come to us text that the Prophet # knew they slept, (and since it is established that they are women and children who do not attend the congregational prayer meaning that he would not have seen them) and it is established that his sorder in the narration of Safwan ibn 'Asal al-Muradi is to take $wud\bar{u}$ in general from every sleep¹⁰⁷. It is necessary not to avoid what

¹⁰⁶ Sahīh al-Bukhārī 566, 569 | Sahīh Muslim 638

¹⁰⁷ Sunan Ibn Mājah 226 | Sunan Al-Tirmidhī 146 | Musnad Ahmad 4/239-241



is ordered, for a matter that is not known whether the Prophet ** was aware of it or not and acknowledged it, based on that we say it.

And we would have omitted the $wud\bar{u}$ altogether from the one that sleeps in any situation if it would be established that the Prophet was aware of their state and acknowledged it.

If it would be affirmed in it that 'Umar said, "The people slept," there would be no evidence for them in it because its meaning would be: the people slept who waited for the Prophet, and how when all groups of them are upon the contrary of this narration as they specify some situations of sleep from it without other situations, none of which is mentioned in the narration.

If someone says, "Is it possible for such a thing to be unknown by the Prophet #?"

It is said: Yes, just as such is possible with you, the Shāfi'iyyah, Mālikiyyah and Ḥanafiyyah that Jābir said, "We used to sell the slave girls that are pregnant from their masters during the time of the Messenger of Allāh #," while the sale of them is more well known than the sleeping of a people during a night, while the people were in need of lamps in the pillar of the mosque.

And as the Mālikīs say, "It was hidden from the Prophet that the people of Abū Bakr's house slaughtered the horse and ate it in Madīnah," and this is more widespread than the sleep of people in the corner of the mosque due to the scarcity of horses in Madīnah during his days. Due to the harsh living conditions and the scarcity of food and the intense intermingling of Abū Bakr's family with the Prophet him, and their proximity to him, how could it be hidden from him that they slaughtered a horse and ate it, yet it was not hidden from him that people slept in the corner of the mosque while he was absent from them? And even if it were true that the Prophet, was present in the mosque, it could be possible that the sleep of those in the corner of the mosque was hidden from him. So how, when it is confirmed that the Prophet, was absent from them, and they claim specifications of their sleep that they were sitting and not leaning, lying down, or reclining, these are lies from whoever claimed it. And with Allāh is success.

In the chapter of speaking about narrations in our book, there are decisive evidences about the actions of the Prophet ## , and in matters he

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¹⁰⁸ Sahīh ibn Hibbān 5968

knows and acknowledges, the talk on that is complete, and we disliked repeating it. And with Allāh, the Exalted, is success.

Some of those who disagree and agree have said regarding narrations of an action performed by the Messenger of Allāh # —that if it does not correspond to a statement—it is an action and not a statement, so it is ruled with generality.

Everyone with good senses knows that an act is not a statement to take from its generality, but it is of two types with no third: First is a clarification of a statement, then it is known that the intended meaning thereof is that statement. Such as when the Prophet said, "Whoever consumes *khamr* then lash him," since the Prophet lashed the one consuming *khamr* forty times with the hands, sandals and the sides of the clothes, that is a clarification for the description of the lashing that is ordered, and its amount. If this would not be the case we would not know how much to lash him. And such as the question of the questioner to the Prophet, about the times of the prayers, then the Prophet said to him to witness with him the prayer, then the Prophet with his prayer taught him the times of the prayer, this is one type.

The second type is if it is an 'amal mubtada' (an independent action), then there is in it following the Prophet and seeking closeness to Allāh through it. Actions do not have generality, but they have an evident and clear meaning that can be understood. It is not permissible to understand such actions as specific to certain circumstances over others unless there is a text or 'aql that necessitates it.

Such as when the Prophet \cong wiped over the *khimār* and '*imāmah* during $wud\bar{u}$ ', and he prayed voluntary prayers while riding a donkey or a camel regardless of the direction they faced. However, when the time for the obligatory prayer came, he dismounted and prayed on the ground. Similarly, he shortened the four-unit prayer during hajj for four days and at $Tab\bar{u}k$ for twenty days while shortening his prayers. There are many cases like this.

Whoever limits wiping in $wud\bar{u}$ to a specific type of ' $im\bar{a}mah$ or $khim\bar{a}r$ because of the description in this narration has made a mistake, as no text imposes such a restriction. That is ruling in religion based with ra ' $\bar{\iota}$ without any evidence.

We ask such a person: What if the narrator had added, "The Prophet "wiped over a yellow 'imāmah during the Zuhr prayer" or "He wiped over

a black *khimār*"? Would you then limit wiping to only a yellow '*imāmah*, only a black *khimār*, only in Madīnah, or only for that specific prayer? These understandings are clear mistakes. The same applies to understanding the actions of the Prophet with such specific restrictions, as actions do not carry general applicability, and they must be understood according to what is apparent.

Similarly, if the narrator had said, "The Prophet prayed on a white donkey," this would imply, according to them, that prayers while riding are only allowed on white donkeys. There are many examples like this.

In the same way, whoever limits qasr (shortening) of prayers to the periods mentioned for hajj and $igh\bar{a}rah$ would also have to claim that shortening prayers is only allowed in Makkah or Tabūk, which is another clear mistake.

The truth, as known by necessity of 'aql and observation, is that when the Prophet wiped over the 'imāmah and khimār, it became clear that directly touching the head with water is not obligatory. The only obligation is wiping, whether it is over the skin of the head, the hair, or something worn on the head, as long as it is permissible to wear.

Similarly, when the Prophet prayed voluntary prayers while riding a donkey or a camel, even when they were facing the east, it showed that facing the *qiblah* is not obligatory during voluntary prayers for someone riding an animal or other means of transport.

Likewise, when the Prophet shortened his prayers for twenty days at Tabūk, it showed that this duration is an exception from the rules of residence, and this applies to any journey where the traveler resides for the same duration. This is established by the Prophet's actions.

One astonishing matter is that the Ḥanafiyyah narrated that the Prophet #performed $wud\bar{u}$ with $nab\bar{\iota}dh$ of dates in Makkah and then generalized this ruling to all places and, in some of their opinions, to all types of $nab\bar{\iota}dh$, not just the one made from dates.

They also narrated that the Prophet $ext{@vomited}$, broke his fast, and performed $wud\bar{u}$, and they made performing $wud\bar{u}$ after vomiting an obligatory rule.

All of this is clear inconsistency and confusion, as they ruled based on what first came to their minds. And this is while the two narrations mentioned are weak and invalid. Yet they cling to these while opposing the established authentic narrations. Allāh is sufficient for us.



Chapter Nineteen: Abrogations (*Naskh*)

The limit of *naskh* is the clarification of the end time of the first order and that which does not repeat continually. As for that which is tied to a time, then if that time ends or the act is performed by which the obligation is omitted, then this is not a *naskh*, if this would be a *naskh*, then the prayer would be abrogated if its time ends and fasting would be abrogated if it becomes night and copulation would be abrogated by *iḥrām* and menstruation and fasting and *ḥajj* would be abrogated by the ending of its months. This is that which no one says according to *ijmā* ' *maqṭū*', that no one calls such *naskh*. That which suffices for going into lengths is that the one that calls this *naskh*, then he must bring evidence on the obligation of calling it *naskh*, and as there is no way for the existence of that, then it is falsehood. Allāh said, "Say, 'Bring your certain evidences if you are truthful" [Al-Baqarsh: 111]

Some of those that preceded said, "Naskh is the delayment of clarification."

We say: *Naskh* based on what we clarified before is one type from the types of delayment in clarification. Because the delayment of clarification is of two types: First is something general from which the exact intended meaning is not understood, such as the general saying of Allāh, "Establish the prayer and give the *zakāh*" [Al-Baqarah: 110] when the time of *taklīf* comes he clarifies the intended meaning of the ruling in that *mujmal* wording with other words that clarify it.

And the second type is the ordered action at a specific time, which has preceded in the knowledge of Allāh that he would change what we are upon to something other else at another time, and when that time comes Allāh clarifies to us that which was hidden from us of chanting of that act to another. Because the word 'clarification' encompasses all rulings because all of them are $i l\bar{a}m$ from Allāh to us, and a clarification for what is intended from us.

If someone says, "Naskh is not clarification because clarification occurs with statements (akhbār) and naskh does not occur on akhbār."

It is said: We do not say that *naskh* is clarification. We only say it is one type of clarification. Every naskh is a clarification, but not every clarification is *naskh*. Some clarification applies to both *akhbār* (statements) and orders, while some applies only to orders. From this latter type is *naskh*, which is the lifting of a prior ruling. There is also clarification in orders that is not *naskh*, but instead a clarification of something general. However, it is not permissible for anyone to consider any type of clarification to be *naskh*, which lifts a previous ruling, unless there is a text, ijmā', or decisive evidence (burhān darūrī) for that. This will be clarified further, by Allāh's will, in the chapter on how to distinguish the mansūkh (abrogated) from the muḥkam (non-abrogated).

Do you not see that the saying of Allāh, "So when the sacred months have passed, fight the *mushrikīn* wherever you find them" [At-Tawbah: 5] we do not say that the ruling (of not fighting) ahl ul-kitāb got abrogated with this verse, but we say the meaning of the saying of Allāh, "Fight the *mushrikīn*," only means other than ahl ul-kitāb and Allāh clarified that in his istithnā' of ahl ul-kitāb in other verses, in this manner we say about the verses of raḍā' (breastfeeding) and the verses of amputating the stealer, and the saying of Allāh, "Thousand years except (minus) fifty" [Al-'Ankabūt: 14]. So we say without doubt: Allāh did not mean every single breastfeeding not every single stealer and that he then abrogated some. Similarly is the saying of Allāh, "Lash each one of them both one hundred lashes" [An-Nūr: 2]. Allāh did not intend with this the slaves and slave girls and that he then abrogated fifty from them and also not one thousand years and then invalidated fifty from it.

But Allah wanted in all of these what we mentioned that which remains, from when Allah made exceptions and specified for all of that and similarly we say regarding the verse of Allah, "Then a ransom from fasting, charity or sacrifice" [Al-Baqarah: 196]. Allāh the exalted did not want every single thing on which sacrifice, charity or fasting applies, but he wanted that which the Prophet sclarified in the narration of Ka'b Ibn 'Ujrah.

If someone says, "Verily clarification occurs connected with each other and naskh does not occur connected."

The answer: we have said regarding this sufficiently that not every single clarification is *naskh*, that which from it is not *naskh* but a clarification for the intended meaning of Allah of the general, it is possible for that to occur



connected and possible for it to occur on scattered different places in the Qur'ān and Sunnah.

And *Naskh* splits in the language into two types:

One is obliteration, as you say, "The state of so-and-so was *intasakhat* (from the word *naskh*), meaning obliterated," or "*Nasakhat* (also from *naskh*) the profit of the people," meaning obliterated entirely.

The second type is the renewal of something and the multiplication of it, as you can say, "I copied (nasakhtu) the book many times." The first part, which is obliteration, which is what we intend to speak about in this chapter, and we do not mean the second type. We mentioned it only to clarify and to inform that we do not intend this type, so that confusion and ambiguity are avoided.

Section: The Abrogation Of Orders And Their Affirmation

The orders: their abrogation and the affirmation/validity divides into four types with no fifth to it:

One type is whose wording and ruling are valid/remain.

Second type is whose ruling and wording both are abolished/abrogated.

Third type whose wording is abolished and its ruling remains.

And the fourth type is the abolishment of the ruling, but the words remain.

In these last three types, abrogation occurs. As for the type with which we started, there is no abrogation in it at all.

As for the type whose ruling and wording abolished, we have narrated that a man recited a verse and memorized it, then wanted to recite it but could not. He complained about this to the Messenger of Allāh, who informed him that it had been abolished (abrogated). Among this type is the ten breastfeedings that make marriage prohibited among these is the Sūrah that Abū Mūsā Al-Ash arī mentioned they used to recite during the time of the Messenger of Allāh, and it was a Sūrah that was as long as Sūrah Barā ah (Al-Tawbah), and it was forgotten and lifted from the memorization except for one verse from it, which is: "If the son of Adam had two valleys of wealth, he would seek a third, and nothing fills the belly of the son of Adam except dust, and Allāh forgives those who repent." And the chapter that Abū Mūsā also mentioned, which resembled one of the *musabbiḥāt* (Sūrahs starting with the glorification of Allāh), was forgotten. Allāh has stated this exact type when he said, "We do not cause to be abrogated a verse or cause

 $^{^{109}}$ Şaḥīḥ Muslim 1452 | Sunan Abī Dāwūd 2062 | Sunan Al-Tirmidhī $\,$ 1150

¹¹⁰ Şaḥīḥ Muslim 1050 | Al-Muṣannaf by Ibn Abī Shaybah 34823, 7/142 | Sharḥ Mushkil Al-Athār 2035

it to be forgotten except that we bring better than it or the like of it" [Al-Baqarah: 106]. And we have narrated that the Messenger of Allāh recited a Sūrah and omitted a verse from it. When he finished, he said, "Is Ubay present?" or as he said. Ubay answered him, and the Messenger of Allāh, saked him what prevented him from reminding him of the verse. Ubay replied, "I thought it was abrogated." The Prophet said, "It was not abrogated." This clarifies the validity of what we mentioned about a verse being entirely abolished.

As for the type where the wording is abolished but the ruling remains, it includes the verse of stoning (*rajm*) and the verse of the five breastfeedings that make marriage prohibited.

Some people have argued against the narration about these by citing 'Ā'ishah, may Allāh be pleased with her, who said regarding these verses, "The Messenger of Allāh $\stackrel{\text{\tiny{de}}}{=}$, passed away and these verses were still recited as part of the Qur'ān."

We say: This is not an argument; rather, it means that it was recited as part of the Qur'ān whose written form and inclusion in the *muṣḥaf* had been abolished (as it may have not reached them). 'Ā'ishah never said that it was part of the recited Qur'ān in the *muṣḥaf*, so their argument is invalid.

As for the type where the ruling is abrogated but the wording remains, it includes the verse, "Confine them to houses until death takes" [An-Nisā': 10]. And His saying, "And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day]. And whoever volunteers excess - it is better for him. But to fast is best for you, if you only knew" [Al-Baqarah: 184] And many other verses and narrations.

As for that which the word of is established and the ruling, they are then the remaining *muḥkamat* verses and narrations.

And the orders that came from the words of the Prophet, they are as well of the exact same four types we mentioned as well. Let the one that assumes think that our saying of this contradicts our saying, "The Prophet does not have words except that he conveyed it to us," We only negate with that saying of us the possibility that the Prophet has words of which the

¹¹¹ Sunan al-Kubrā by Al-Nasā'ī 8240, 5/67 | Musnad Aḥmad 3/407, 5/123 | Ṣaḥīḥ Ibn Khuzaymah 1647 | Al-Mu'jam al-Kabīr by Al-Ṭabarānī 13141, 12/288

¹¹² Sahīh Muslim 1452

ruling was not abrogated, but that it then was abolished, while it is not conveyed to us the words of it and also not the ruling.

That is what we completely negate because of the verse, "This day I have completed for you your religion" [Al-Mā'idah: 3].

And the saying of Allāh, "He does not speak of desire, it is only a revelation revealed" [An-Najm: 3-4].

And the saying of Allāh, "We have revealed the revelation and we guard it" [Al-Ḥijr: 9].

Guarding happens with conveying the meaning, every ruling conveyed to us of the description of how the Prophet did it and the attribute of his ruling, but it is not narrated to us the texts of his words about it. This is like what is narrated about the Prophet regarding the property of baḥrayn (māl ul-baḥrayn) and his ruling with oaths with the witness and musāqah, and his muzāra'ah of ahl khaybar, except that it is not conveyed to us. For these there is no other way except that there must have been from the Prophet words uttered about it, except that it is not conveyed to us.

And the change of ruling, it is from the same type we mentioned of the abolishment of the words of the recitation and the ruling remains without difference, all of that is revelation from Allāh, as for the *mansūkh* words and ruling then it is absolved from us, its knowledge, seeking it and following it.



Section: The Claim That Abrogated Rulings Should Not Have Words Remaining With Us

Some people who mention abrogations and the abolishment of the abrogated words said that it is impossible for the *mansūkh* words to remain and that anything abrogated must not be with us anymore, they said, "*Naskh* is a facet of wisdom (*ḥikmah*). It is possible that Allāh's knowledge, the Exalted, knew that removing this word would be beneficial in a way for what is not beneficial of keeping it. This is because if He, the Exalted, removed the entirety, He knew that we would adhere to the abrogating matter without it causing us any doubts, for Allāh, the Exalted, knew that there would be people among His creation who would invalidate abrogation, and they would be misguided because the abrogated words remain, so He removed it for this reason."

The answer: This is one of the most corrupt and baseless statements on earth. It is said to those who speak this nonsense: Was Allāh, the Exalted, incapable of other means of benefitting beyond abolishing some of His words to prevent some of His creation from being misguided by it? Or was He capable of sparing them this entire burden and guiding them by clearly clarifying the abrogated in such a way that it would remove from them doubts and confusion?

If he says, "Allāh the Exalted, is not capable of more," then he has disbelieved and attributed to himself more capability than how he attributes his Creator, the Exalted, for he explains by his claim and clarifies to 'guide' people, as he claims.

And if he says, "Allāh the Exalted, is capable of what you mentioned,"

It is said to him: Then He did that while other things could have been more beneficial for them, and this contradicts your corrupt doctrine (as they claim that due to wisdom, Allāh removed the words of the rulings that are

abrogated, because otherwise it would misguide, but if it was due to wisdom then Allah would have way better ways of doing it).

It is also said to him: If wisdom, according to you, is in the entire abolishment (words and rulings) of some abrogated things so that some people are not misguided by them, then for what reason did He, the Exalted, retain other abrogated words by which groups, including yourself, have been misguided in many matters where you claim abrogation and others oppose you, and in many matters where you claim non-abrogation and others claim abrogation? So where is the wisdom that you demand from your Lord, the Exalted?

And what made the abolishment of what was abolished more deserving of abolishment than the abrogated words whose wording was retained, causing confusion among factions of the people of the religion? And what made the retention of the wording of the abrogated more deserving of retention than what was abolished of the abrogated wording (without ruling).

And what is that which obliges the invalidity of the ruling which was yesterday obligatory and then got prohibited today, or that which has prohibited yesterday then became permissible today? Was this due to a change in circumstances or a nature that changed, necessitating the alteration of the sharī'ah? This is indeed a far-reaching misguidance, a severe deception, deep ignorance, and excessive insolence. There is nothing here at all except that Allah, the Exalted, wished to prohibit some of what He created for a certain period, and then He wished to permit it for us again without any rationale/underlying reason ('illah) for any of this, just as there is no reason for the sending of Muhammad in the era he was sent without the era before it, and just as there is no rationale for the prayers being five instead of three or seven.



Section: Regarding The Verse, "Whatever a Verse do We abrogate" [Al-Baqarah: 106]

Allāh said, "Whatever a Verse do We abrogate or cause to be forgotten $(nunsih\bar{a})$, We bring a better one or similar to it" [Al-Baqarah: 106].

The verse has also been recited by Abū 'Amr and others as, "Whatever a Verse do We abrogate or cause to be delayed (nunsi ' $ah\bar{a}$), We bring a better one or similar to it" [Al-Baqarah: 106].

The meanings of the two words are different, naskh is as we clarified the abolishment of the ruling. As for $nunsih\bar{a}$ (we cause to be forgotten), its meaning is forgetting which is the abolishment of the word entirely as for $nunsi\,^{\circ}ah\bar{a}$ (we cause to be delayed), it is delayment, so its meaning is: To delay acting upon it at a known time, Allāh does all of that however he wills. There is none to put back His Judgement



Section: The Differences Of The People Regarding The Abrogation

The people have differed on abrogation, whether it applies to the order itself (the imperative) or to the ordered thing (direct object)

The correct view is that abrogation applies only to the order and it is not possible for it to apply to the ordered thing at all, because the ordered thing is our action, and our action can only be one of two types: either it has already occurred from us, or it has not yet occurred from us. If it has already occurred from us, it has ended, because our actions are a rad fāniyah (accidents that come to an end), and it is not possible to prohibit something that has ended since there is no way for it to return ever, nor is it possible to permit for us something that has ended, because all of this is impossible. And as it has not occurred from us, how can something that has not yet happened be abrogated?

So it is evident that what is being abolished is the prior order, not the act that we have not yet performed. Therefore, it is established that the order is what is abolished, hence it is the abrogated, and abrogation applies only to the order, not to the ordered act. By Allāh, the Exalted, is success.

The certain evidence of what we mentioned is His saying, Exalted be He, "Whatever a Verse do We abrogate or cause to be delayed/forgotten" [Al-Baqarah: 106].

He, the Exalted, has informed that the verse is what is abrogated, not our actions which are ordered or prohibited from. And the verse is an order from Allāh with an obligation of what he obliged and a prohibition or what he prohibited, as for the ordered act it is our actions and movements, (such as) from the prayer and fasting and applying a *hadd*. So it is established what we said by text.



Section: Doubts Of People On The Meaning Of Abrogation

Some people have expressed doubts about the meanings of abrogation (naskh), specification $(takh s \bar{\imath} s)$, and exception $(istithn\bar{a})$. Some have claimed that all of these are of one kind. This is false, for abrogation is the abolishment of a ruling that was previously real, whether we knew beforehand that it would be abolished or not.

Allāh informed Moses and Jesus, that He would send a prophet named Muḥammad with rulings (shara'i') that contradict theirs. This is abrogation that we knew about.

As for *takhṣīṣ*, it is to specify out a *shakhṣ* or *ashkhāṣ* from the remaining of the *naw*, as the Prophet was singled out with the obligation of night prayer and the permission to marry nine women, and as Abū Hāshim and Banū Muṭṭalib were singled out with the prohibition of charity, and Abū Burdah's young goat (*jadhʿah*) sufficed for him in the sacrifice and no one after this.

As for $istithn\bar{a}$, it is what comes with general words and then has some of what it encompasses excluded, as in the saying of the Almighty, "Except from their wives," and similar instances. However, in reality a $takhs\bar{\imath}s$ is a valid $istithn\bar{a}$ as we have clarified that they are the same.

The difference between abrogation and exception/specification is that something that is general of which some of it is made an exception, Allāh did not ever want to oblige us with that general thing, he did not want except that which remains after the *istithnā'/takhṣīṣ*. As for *naskh* it is what we are prohibited, permitted or ordered now, while a different not necessarily opposite order was intended from us before, meaning that there were two rulings and both existed for a time, this is different from *istithnā'/takhṣīṣ* as they are one ruling even if there is a general text and a specific text. These two texts are one ruling as the specific one is the intended meaning of the general, and Allāh is the source of strength.

If someone says, "Verily an abrogation is an exception of the second time (as abrogations are different times with different orders) from letting the ruling remain unrestricted forever."

It is said to him: This is not something we make the same as an unrestricted $istithn\bar{a}$ ' for the reasons we mentioned, that the general from which exceptions are made, they are intended from us in any case. And that the abrogated was that which was obligated to us in both texts. This is a clear difference.

And if this opponent wants to merely say that abrogation is only a type of exception because of the reason the exception of a time, its specification of act from other times, then we do not reject this. And it is then correct to say that every abrogation is an exception, but not every exception is an abrogation. And this is correct.



Section: The Possibility Of Abrogation, Then Its Obligation, Then Its Impossibility

Some Jews deny abrogation entirely. Those who deny abrogation argue that it is not wise for Allāh to order something yesterday and then prohibit the same thing today. This is similar to the argument of our companions concerning 'ilal, and these are people who question their Lord.

They are told: Tell us, what wisdom obliges Allāh to order something yesterday what he ordered? Do you think that if He had not ordered what He ordered, His wisdom would be nullified, or if He had ordered otherwise, His wisdom would be nullified? Or do you think that when He sanctified the holy land and cursed Jericho and Jerusalem, was that corrupting His wisdom? And when He prohibited work on Saturday and permitted it on Sunday, do you think if He had reversed the order, it would have nullified His wisdom? If they attempt to differentiate any of this, they align with the insane and declare what is not understood and what is known to be false.

Then they are asked: Did not Allāh give dominion to some sinful, oppressive disbelievers, empowering them, and humiliated other sinful, oppressive disbelievers and gave dominion over them to others? Did He not give dominion to righteous, virtuous, believing people, empowering them, and humiliated other righteous, virtuous, believing people and gave dominion over them to others? Did He not extend the lives of some tyrannical disbelievers and took the lives of others before reaching maturity? Did He not do the same with some righteous believers? Did He not empower some sinful rebels with eloquence and knowledge to the extent that they misled nations, and made others of them dull and foolish, doing the same with believers alike? What made this His judgment rather than the opposite of all the others? What distinguishes these actions of His from ordering something today and prohibiting the same thing tomorrow? Only a mindless, foolish person would differentiate between all of this.

If they claim that this is the concept of $bad\bar{a}$ (change in divine will), they are bound by what we mentioned earlier in all aspects, including giving life and then causing death, enriching and then impoverishing, healing and then making sick, aging after youth.

If someone asks, "What is the difference between $bad\bar{a}$ ' and abrogation."

It is said to him: The difference between them is clear: 'bada' is when an order is issued and the outcome of the situation is not known, while 'naskh' is when an order is issued with the knowledge that it will be abrogated at a certain time, and this had already been preordained in His actions (knowledge) and decrees. Since these two things are distinct and different, it is necessary to apply for each names that describes it distinctly from the other, so that it can be understood and the truth is clarified.

Badā 'is not from the sifāt of Allāh, and we do not mean the letters ' $b\bar{a}$ ' ' $d\bar{a}l$ ' and 'alif' but rather the meaning we mentioned, which is that an order is given without him knowing its outcome. Allah is far exalted above that.

Whether they call it 'naskh' or 'bad \bar{a} ' or whatever they wish. As for 'naskh' it is from the sifāt of Allāh from the aspect of all His actions, which is the decree of a matter knowing that it will be abrogated after a specified time as previously known in His knowledge.

We are not persistent about the letters 'nūn' 'sīn' and 'khā'' (affirming these letters specifically as an attribute), but rather the meaning we have clarified. Whether they call it 'naskh' or 'badā' or any other name, but using the word 'naskh' is how we refer to this meaning. We use this meaning for which there is no inseparable actions from Allāh in the realm of testing $(d\bar{a}r \, al\text{-}ibtil\bar{a})$. Everything in this world comes into existence and then ceases to exist; this is the essence of *naskh*. It is one aspect of the natural order of creation and corruption that governs the universe, as ordained by its Creator, Innovator, Sustainer, and Completer—there is nothing worthy of worship in truth but Him.

And the name of the first attribute with us is 'bad \bar{a} ' which expresses this meaning that is among the attributes among humans, *jinn*, and all animals who can choose themselves. It is a reprehensible trait because it is the result of boredom, regret, and weariness. These traits are negated from the angels by the text of the Qur'an, then how about the Almighty Creator? This is a



clear difference between $bad\bar{a}$ and naskh that has become apparent. And praise be to Allāh, the Lord of the Worlds, the Most Merciful, the Most Compassionate.

Abrogation before the occurrence of the time Allāh Almighty knows it will change the situation is impossible in existence, not (impossible) in the ability of Allāh to do so. And it is from the apparent possible to us. And it is obligatory at the time of its occurrence and the reach of its extent that Allāh Almighty has decreed. And after we have been informed by Allāh Almighty that there is no prophet after Muḥammad,

It is impossible, no way for it to exist. This is not in the sense that He Almighty is not described with the ability to make that happen, we seek refuge in Allāh from thinking about this or doubting. Rather, He Almighty is capable now and forever to send another prophet with another religion, but He has informed us that He will not do so, willing to leave it, and His word is the truth. So we know that the existence (the being of) of what He does not want to exist is impossible to be ever.

And it is said to those who refuse abrogation: What is the difference between Allāh ordering us something at a specific time and he clarifies us and informs us that if a certain time comes that it is obligatory to move to something else, and between Allāh ordering us and does not inform us that he will change us to something else. There is no way for the existence of a difference between them for anyone with 'aql. Because we do not have any conditions to impose on Allāh, nor is He obligated to reveal His knowledge to us, nor to guide our paths, nor to consider our opinions on anything. Whoever claims otherwise is an apostate in the religion of Allāh, a disbeliever in Him, and a fabricator against Him. Allāh has explicitly stated this in His saying, the Most High, "And they will never compass anything of His Knowledge except that which He wills" [Al-Baqarah: 255].

And the saying of Allāh, "The All-Knower of the Unseen, and He reveals to none His Unseen, except to whom he has approved of the Messengers" [Al-Jinn: 26-27].

This is something no one opposes except some of the Jews, as for *ahl ul-islām*, all of them see the possibility of *naskh*, except some who prevent this word and see the possibility of the meaning of it. This is something we do not oppose if the description of the named is safe to us. We are not among those that indulge in the (meaning) of words except if texts necessitate it.

As for the Jews, it is not surprising due to the intensity of their ignorance, the weakness of their minds, the severeness of their deceit, their lies, and the contradiction of their statements. And the hardness of their faces, the softness of their hearts, and their excessive rage against their Lord, the Almighty, when He inflicts upon them disaster, humiliation, disgrace, and vileness.

They claim that they have conditions upon their Lord more than this. They claim about a dog among their rabbis named Ishmāʿīl, may the curse of Allāh be upon him and upon them, that Allāh—exalted be He above what the disbelieving polytheists say—clung to Ishmā'īl's clothes in the ruins of Jerusalem, meaning their Lord was crying and groaning like a dove and that their Lord begged this vile Ishmā'īl to bless him, meaning that their Lord asked for Ishmā 'īl's blessing. So, it is not surprising that they insult their Lord as they like.

This is the description of a $jinn\bar{i}$ who played with their minds and mocked them, not the description of the Almighty al-Barī, exalted be He. It has been made clear to them in the Torah the matter of the Messenger of Allāh and they were warned about him.

So it is with that established that their shart ah was only based on a condition, until the coming of the awaited Prophet, who is the hope of the nations, who will prevail over the tyrant of Paran (Fārān), accompanied by thousands of the righteous, whose words Allah will place in his mouth, and whoever disobeys him will be punished.

So it the matter of *naskh* became like what they were ordered in the wilderness, with orders regarding what to do there, and in the house and in Syria, with other orders, and similar to what they were ordered regarding work on days other than Saturday, then the prohibition of work on Saturday, and like fasting at certain times and prohibiting it at other times, and like permitting intercourse at certain times and prohibiting it during menstruation and other rulings related to specific times. When those times are absent, the rulings of that changes. All of this has no underlying rationale ('illah) or necessity, neither benefit nor anything else, except that Almighty Allāh willed it as He willed the creation of different creatures. And with Allāh's help, And how when in their Torah, Allah permitted Adam and his sons to eat animals except blood, which is contrary to the rulings of Moses so *naskh* has then become something possible according to them.



Section: In That Which Abrogation Is Possible And In That Which Abrogation Is Not Possible

Abrogation is not possible except in speech (statements) whose meaning is an order or prohibition. We have clarified that all existing speech is divided into four categories: order (*amr*), desire (*raghbah*), statement, (*khabar*), and inquiry (*istifhām*).

Abrogation does not occur in inquiry, statements, and desire. And returning from a statement or an inquiry is only called *istidrāk* (retrieval/correction). All of this is negated for Allāh, the Exalted, because a return from them is only a denial of the statement which one is returning from and knowledge or aversion to what one has returned from the inquiry due to a new event or knowledge of something previously unknown.

As for returning from desire, it is called seeking exemption (*istiqālah*) or distancing (*tanazzuh*) oneself from what was previously desired. We have already clarified before that when meanings differ, it is necessary to make differences in their names to avoid confusion, clarify the explanation, and ensure correct understanding.

So the remaining case is returning from an order (*amr*) by inventing something new, so it is called abrogation (*naskh*). This is the action of one who knows that his order will be abrogated and replaced.

When speech has the wording of a statement but the meaning of an order (al-kalām lafzihi lafz al-khabar wa ma 'nahu ma 'na al-amr), abrogation is possible in it, as in the saying of Allāh, the Exalted, "And those of you who die and leave wives behind - for their wives is a bequest: maintenance for one year without turning them out" [Al-Baqarah: 240]. In this, there is a sin on us if we do not do it. Similar to Allāh's saying, "The standing place of Abraham. And whoever enters it is safe" [Āl 'Imrān: 97]. This is an order to make safe everyone who enters the standing place of Abraham. This is not a khabar; if it were a khabar, it would be false because people have been unjustly and aggressively killed around it.

It exists in every language that an order can be conveyed using the wording of a statement or inquiry, as when someone says to his servant, "Will you do such and such order?" or "Do you see what is permissible for you?" Such khabar about a thing implies an obligation for what the statement is about, and the order implies an obligation for the ordered action. So there is a shared aspect between the form of the statement and the form of the order. So, when someone says, "It is a right upon you to go to Zaid," this is a valid khabar in its structure while its meaning is, "Go to Zaid." Likewise, Allāh's saying, "Due to Allāh from the people is a pilgrimage to the house" [Āl 'Imrān: 97] Its meaning is, "Let the people perform pilgrimage from you, whoever is able to."

And similarly, if someone says, "I have made it obligatory for you to go to Zaid," this is a valid khabar in its structure, and its meaning is, "Go to Zaid."

Likewise, Allāh's saying, "O you who have believed, fasting is prescribed for you as it was prescribed for those before you" [Al-Bagarah: 183] means 'Fast.'

So that which is like this among the statements $(akhb\bar{a}r)$ then abrogation in them is possible. But as for a mere khabar, such as "Zaid stood," "This is 'Amr," "Yesterday such an event occurred," "Zaid is standing now," or "Tomorrow such a thing will happen," abrogation in such cases is absolutely not possible, because it would be a denial of the *khabar*.

Allāh, the Exalted, is far removed from lying, as He has informed us by saying that His word is the truth and by His saying, He said, "The truth, and the truth I speak" [Sad: 84] He is described as one who abrogates, changes, and replaces matters/orders by His saying, "Allāh eliminates what He wills or confirms, and with Him is the Mother of the Book" [Ar-Ra'd: 39] and by His saying, "You give sovereignty to whom You will and take sovereignty away from whom You will. You honor whom You will and humble whom You will" [Āl 'Imrān: 26]. And the saying of Allāh, "He leads astray who we wants and guides who he wants" [An-Nahl: 93]. And the saying of Allāh, "Everyday He is in a matter" [Ar-Raḥmān: 29].

Our companions have differed regarding some orders as to whether abrogation is possible in them or not. They said, "Everything known by the 'aql cannot be abrogated, such as tawhīd and the like."

This is false because it is ambiguous of what is possible with what is not possible. But the one who makes this statement is asked, "What do you mean by saying that the abrogation of $tawh\bar{t}d$ is not possible?" If you mean that after Allāh has informed us that this religion will never be changed, and also if you mean that since it has preceded in the knowledge of Allāh that He will not abrogate it ever that we know that it will not happen, then yes this a valid statement, and in this manner is the permissibility of sheep and the prohibition of swine and all the rulings of the settled $millat\ ul-han\bar{t}fah$, naskh in them will not happen ever. There is no difference between $tawh\bar{t}d$ and the remaining rulings in that at all.

And if you mean that Allāh is unable to abrogate tawḥīd, or that he is able to and that he is able to order dualism or trinitarianism, but that if He were to do so, it would be injustice and absurdity, then know that you are mistaken and slandering Allāh, the Exalted. For you are rendering Him powerless, dictating to Him, and judging that you are the arranger for your Creator, Glorified and Exalted is He, and placing Him under ranks and under ruling of your 'aql, such that if He were to contradict them, it would be absurdity and injustice. And this is a statement that leads to pure kufr and absolute shirk, along with the great amount of ignorance and madness within it. Rather, we say that Allah, Glorified and Exalted is He, is capable of abrogating monotheism, ordering dualism and trinitarianism, and the worship of idols. And if He, the Exalted, were to do that, it would be wisdom, justice, and truth, and tawhīd would be disbelief, injustice, and absurdity. However, Allāh, the Exalted, will never do that because He has told us that He will not change the religion which He has ordered us to follow, so once we are secure in that what Allah has disavowed became disbelief, injustice, and absurdity, and what He has ordered became truth, justice, and wisdom—only because of His order. Our belief in the truth and wisdom of tawhīd is not due to its essence alone, but rather it became truth, justice, and wisdom because Allāh, the Exalted, ordered it, approved of it, and named it truth, justice, and wisdom—only for this reason. This is the religion of Allah, Glorified and Exalted is He, as He has stated that He does whatever he wills, And that, "He is not questioned about what He does, but they will be questioned" [Al-Anbiya': 23], and if He had willed to take amusement he would have done so and if he had willed to take a son, He would have chosen from what He creates whatever He wills. This is the saying that the 'agl indicates is correct, and anything contrary to it is false because the 'agl testifies that Allāh, the Exalted, created it, and that He was truly One in the beginning when there was neither an animal soul nor an 'aql compounded within it, nor within anything else, nor any substance (jawhar), nor 'arad (accident), nor an amount, nor anything numbered, nor any rank among ranks. He, the Exalted, created souls after they were nothing, and created the 'agl as they are after they were nothing, and arranged ranks within them as they are after none of it existed. If He had willed to create 'aql differently from how they are, and to arrange matters within them differently from how He arranged them, He would have done so, and it would not have been difficult for Him. Then it would have been the truth, justice, and wisdom, and anything contrary to it would have been injustice, oppression, and absurdity, for, "There is no adjuster of His decision" [Ar-Ra'd: 41]. Whoever claims otherwise has claimed that the rank of the unknown 'aql in the soul existed before 'aql or soul existed, and this is pure contradiction, confusion, and impossible nonsense. But whoever's 'aql Allāh, the Exalted, has illuminated and guided to be enlightened by it, and who perceives the coming into being of the world after it was nothing (hudūth al-'ālam), has realized the truth of what we have mentioned, and he has been certain of it, witnessed it, and known it by necessity, with no possible deviation from it. But whoever Allah, the Exalted, has allowed to remain in confusion, and whose discernment has been weakened, has wandered in perplexity, imagining things contrary to how they truly are, never reaching a conclusion, and falling into destructive doubts. Praise be to Allāh, the Exalted, for what He has taught and guided—there is no Allāh but He, the Most Merciful, the Most Compassionate.

Among the astonishing things our companions have unanimously agreed upon is that it is not possible to abrogate the gratitude (shukr) of the bestower/benefactor (mun'im), and that there is no way to allow ingratitude to the bestower in the 'aql at all. So we ask the proponent of this corrupt view and say to him: What do you say about a man who saved a child from being devoured by a lion, raised him when he had no father, mother, or wealth, took good care of him, taught him knowledge, honored him, treated him well without humiliating him, did not exploit him, provided him with wealth, married him off, and gave him authority. Then, this bestower committed adultery while being married, stole, and slandered, but then repented from all of that and engaged in worship. Then a just witness testified against him for

these crimes, and he was brought before his orphan, who was still one of the judges among the Muslims. What do you think should be done with him? Should he forgive him (after all that) and especially since he has repented, or should he order that he be severely flogged, then have his hand cut off, and then order his head to be smashed with stones until he dies? If he says, "I think he should forgive him," then he has apostated if he holds that belief, or he has become disobeyed if he suggests that without holding the belief. But if he says, "I think he should inflict on him the kinds of punishments mentioned," then he has abandoned his corrupt view that there cannot be ingratitude for the perfection of the bestower. If he says, "This act (punishment) is true gratitude in reality," he has said the opposite of what he claimed that the 'aql necessitates it and has called the utmost harm an act of perfection. If he then returns to saying, "Only the 'aql finds it fitting to be grateful to the bestower whom Allāh has ordered us to be grateful to, and not to the bestower whom Allāh has ordered us to harm and not to reciprocate his perfection," then he has returned to the truth and to the belief that nothing is good except what Allah, the Exalted, has done, and nothing is evil except what Allāh has forbidden. And this is the only view for which anything else opposing it is not allowed.

And it is astonishing how these people have strayed from the light of truth in this matter, while they hear Allāh, the Exalted, say, "You will not find a people who believe in Allāh and the Last Day loving those who oppose Allāh and His Messenger, even if they be their fathers, or their sons, or their brothers, or their kindred. For such, He has inscribed faith in their hearts, and strengthened them with a spirit from Himself. And He will admit them to gardens beneath which rivers flow, to dwell therein forever. Allāh is pleased with them, and they are pleased with Him. They are the party of Allāh. Behold! Indeed, the party of Allāh are the successful" [Al-Mujādilah: 22].

And His saying, the Exalted: {O you who believe! Stand out firmly for justice, as witnesses to Allāh, even if it be against yourselves, or your parents, or your relatives" [An-Nisā': 135].

So, Allāh, the Exalted, has made it obligatory to stand by the truth against them, even if it leads to crucifying them, fighting them, cutting off their hands, feet, or limbs, beating them with whips, smashing them with stones, violating their sanctities, taking their women and children as captives, selling their properties, selling them as slaves, and seizing their wealth—even

if they are our own beneficent fathers, if they disbelieve. So where is the gratitude to the bestower and the absolute duty to honor the father in this? All of this is impossible.

What is only obligatory, rather, is to honor the two parents whom Allāh has ordered us to honor. What is also obligatory is to show gratitude to the bestower whom Allāh has ordered us to be grateful to. Allāh did not order us to honor our parents because it was intrinsically obligatory, nor did He order us to dishonor them. If Allāh had not ordered us to be grateful to the bestower, it would not have been necessary to show gratitude or ingratitude, just as it is not necessary to honor harbī or muhārib parents. Similarly, if Allāh had not ordered us to show mercy, it would not have been obligatory.

Just as we lay down the small lamb, slaughter it, cook its meat, and eat it, we also do the same with the small calf, causing its mother to grieve for it, and we generate upon her a longing and affection that softens the hearts of those who hear it and pains the souls of those who see it. We have seen how cattle bellow and react when they find the blood of a bull that has been slaughtered. All of this is permissible and instead ordered at specific cases, and one who does not deem it permissible is an infidel, and his blood must be shed.

So, what difference in the ' $uq\bar{u}l$ ' is there between this and slaughtering a human child if that were permitted to us?

It has been mentioned in some rules that Mūsa, was ordered in the case of the people of Midian when he fought them. to kill all their children, from the first to the last of the males. The Messenger of Allāh # was asked about the children of the polytheists who are struck in night raids, and he said, "They are from their fathers." 113 Is there anything in all of this other than that the matters/orders are merely from Allāh, the Almighty without any rationale behind them?

And some have said, "If an order came and on doing the action a promise (of *jannah*) came/exists while on abandoning it a threat came, then if that order is abrogated, the promise and warning are also abrogated."

It is said to them: The promise and warning (al-wa'd wal-wa'īd) are (itself) not abrogated because they were only related to the validity/existence (thabat) of that order, not unrestrictedly and the abrogation would only be valid in them if that order were to remain accordingly, and then a statement

¹¹³ Sunan Abī Dāwūd 4712 | Musnad Ahmad 6/48, 6/195

would come to invalidate that threat. This is something that cannot happen after the arrival of the statement, and there is no abrogation in the promise or the threat at all because that would be a lie and a breach (of that statement), and Allāh Almighty is far removed from that.

However, the verses and narrations that have come in this regard are to be joined together, and it is not permissible to limit it to some of them without considering others (as it is obligatory), as we have clarified before and with Allāh's help and success.

Some people have made a severe mistake and have brought forth fabricated narrations by liars and atheists, such as the one about the domestic animal eating a paper on which a recited verse was written, and that it was then completely lost.

And Among these is the claim that 'Uthmān made copies of the Qur'ān based on the testimony of two men and one testimony, and that there were recitations ($qir\bar{a}$ ' $\bar{a}t$) at the time of the Messenger of Allāh that 'Uthmān abolished and gathered the people upon only one $qir\bar{a}$ 'ah. All of this is falsehood, and we seek refuge in Allāh from it and from believing in it. What must be believed is the saying of Allāh the Exalted, "Indeed, it is We who sent down the Qur'ān and indeed, We will be its guardian" [Al-Ḥijr: 9] whoever doubts this is a $k\bar{a}fir$. And has insulted the Mothers of the Believers, accusing them of wasting what is recited in their homes to the point where a sheep could eat it, while verily this is an apparent lie, false and impossible, because what the domestic animal ate cannot be anything but one of two things: either the Messenger of Allāh had memorized it, or he had forgotten it. If he had memorized it, then it doesn't matter whether the domestic animal ate the paper or not.

And if the Messenger of Allāh had forgotten it, then whether the animal ate it or not, it would have been removed from the Qurʿān so it is not allowed (in that case) to affirm it in the Qurʿān as Allāh the Exalted said, "We will make you recite, and you will not forget. Except what Allāh wills" [Al-Aʿlā: 6-7]. Allāh has made it clear that nothing is forgotten from the Qurʿān except what He intended to remove by causing it to be forgotten. So, it is evident that the narration about the domestic animal is a lie and fabrication. May Allāh curse whoever permits or believes in this.

Indeed, everything that Allāh removed from the Qurʿān (the verses that were not only abrogated but also what the recitation of was abrogated, as

for abrogated verses only they are not removed) they were abolished during the lifetime of the Prophet # with the purpose of its removal. It was prohibited to recite if it was not forgotten or erased entirely from all hearts. There is no possibility for such occurrences after the death of the Messenger of Allāh. No Muslim accepts this, as it contradicts the statement of Allāh, the Exalted: "Indeed, it is We who sent down the Qur'an, and indeed, We will be its guardian" [Al-Hijr: 9].

It also is against His statement: "Today I have completed for you your religion" [Al-Mā'idah: 3]. Removing anything from it after the death of the Messenger of Allāh is a deficiency and a reduction in the religion, negating the promised completeness. This also against the unique virtue bestowed upon us, as virtues are not subject to abrogation. And praise be to Allāh, Lord of the worlds.

As for the action of 'Uthman, may Allah be pleased with him, the Messenger of Allāh did not pass away until the Qur'ān had been compiled as it is, arranged without addition, omission, or alteration. The recitations that existed during the time of the Messenger of Allāh remained entirely as they were, with nothing missing from them, and it is not permissible to prevent anything from them, whether small or large. Allah the Exalted said, "Indeed, upon Us is its collection and its recitation. So when We have recited it, then follow its recitation. Then upon Us is its clarification" [Al-Qiyāmah: 17-19].

And the clarification of this and the detailed discussion of it have their place in the chapter on $ijm\bar{a}$ in this book of ours, if Allāh the Exalted wills.

Some people have claimed about the verse of stoning that it was not part of the Qu'ran, and the same for the verses of breastfeeding. We do not deny this, nor do we state with certainty that it was Qur'an recited in the prayers. However, we say that it was revelation that Allah the Exalted revealed to His Prophet along with what He revealed of the Qur'an. The recited one was established in the maṣāḥif and the prayers, and the remaining revelation was recited, transmitted and preserved, acted upon like the remaining of his speech which is revelation only. And we do not deny the abrogation of verses during the lifetime of the Messenger of Allah, from the hearts altogether, as Allāh the Exalted said, "Whatever a Verse (revelation) do We abrogate or cause to be forgotten, We bring a better one or similar to it. Know you not that Allāh is able to do all things?" [Al-Baqarah: 106].

However, we do not allow the possibility of this after his death, as Allāh said, "We bring forth one better than it or similar to it" [Al-Baqarah: 106] Indeed, Allāh the Exalted only made a condition for its abolishment to bring forth something better than it or similar to it, and this is not possible after the death of the Messenger of Allāh, because bringing forth a verse after him is impossible since revelation ceased with his death. Whoever allows this has allowed for the possibility of prophethood after him, and whoever permits that has disbelieved.

It is not possible that the Prophet would forget anything from the Qur'ān before conveying it. If he conveyed it and preserved it for the people, then we do not deny that he may forget it afterward, because it was preserved and established. A similar instance is mentioned in an authentic where the Prophet heard a man reciting the Qur'ān, so he prayed for mercy for him and he said that that had been reminded of a verse that he had forgotten by him¹¹⁴.

 $^{^{114}}$ Şaḥīḥ al-Bukhārī 2655, 5038, 5042, 6335 | Şaḥīḥ Muslim 788



Section: The Abrogation Of The Abrogating Rule (Nāsikh)

There is no difference between Allāh abrogating a ruling by another, and then abrogating that second one by a third, and that third by a fourth, and so on. All of this is possible if there is evidence indicating that it exists. It has been mentioned in some narrations that prayer was changed three times, and fasting was changed three times as well. For instance, 'āshūrā' fasting was obligatory, then its obligation was abrogated by the fasting of Ramadan, with the condition (for its validity) that whoever wished could fast, and whoever wished could feed a poor person and break their fast. Then that was abrogated by making fasting obligatory on every present, capable, healthy, adult, sane person. It was also that whoever slept was not allowed to eat or have intercourse, and then that was abrogated by allowing all of that at night, with the prohibition of fasting at night until dawn¹¹⁵. We have mentioned in the Book of Marriage from our large collection "Al-Īṣāl" with the most authentic chains of narration, that temporary marriage (mut'ah) used to be permissible by Allāh, then it was abrogated (becoming prohibited), then permitted (again), then abrogated (became prohibited again), then permitted, then it got abrogated as prohibited until the Day of Judgment.

 $^{^{115}}$ Sunan Abī Dāwūd 506, 507 | Musnad Aḥmad 5/246-247 | Ṣaḥīḥ ibn Khuzaymah 383, 384 | Al-Mustadrak by Al-Ḥākim 2/274



Section: The *Manāqil* of Abrogation

The ranks of orders in the *sharī'ah* are five, there is no sixth for it. They are: prohibition, which is the first part, and obligation which is the second part. The prohibition is followed by the rank of dislikeness $(makr\bar{u}h)$, which consists of matters which abstaining is better than doing them. However, the one who abstains is rewarded, and the one who does them is not sinful. An example of this is eating while reclining or wiping off the water from ablution with a cloth prepared for that purpose, and similar actions.

The obligation is followed by the rank of recommendation $(mand\bar{u}b)$, which consists of things where doing them is better than abstaining. However, the one who does them is rewarded, and the one who abstains without dislike for them is not sinful. This includes all voluntary acts of goodness.

Between these two ranks is the rank of absolute permissibility $(mub\bar{a}h)$, which is where doing or not doing something is the same. If a person does it, they are neither rewarded nor sinful, and if they abstain, they are neither rewarded nor sinful. Examples include sitting with legs crossed or one knee raised, dyeing one's clothes green or black, or feeling something with one's hand, and similar actions.

When an obligation is abrogated, one must look into the form of the abrogation. If it is abrogated with the phrase "do not do (*la taf'al*)" after having been ordered to do it, it changes to prohibition because this phrase indicates prohibition.

If the abrogation occurs by saying, "And there is no blame upon you" [Al-Mumtaḥinah: 10] or by using a phrase of lightening or leaving or action of it, then it only changes to the nearest rank, which is recommendation. This is like the fasting of ' \bar{a} sh \bar{u} r \bar{a} ', for when its obligation was abrogated, it shifted to recommendation (so if orders get abrogated in these manners it becomes recommended).

Likewise, if a prohibition is abrogated, if it is abrogated with the phrase "do! (*if'al*)" it changes to an obligation because this phrase indicates

obligation. But if it is abrogated with "no blame (la junāh" or with lightening, it changes to the nearest rank, which is dislikeness.

And if dislikeness or recommendation are abrogated with the words, "do! (*if'al*)," both change to obligations.

And if both are abrogated with, "Do not do! (la taf'al)," both change to prohibition.

And if both of these are abrogated to takhfīf both change to complete permissibility, because permissibility is the closer to these two than obligation and prohibition. Because dislikeness and recommendation are two permissibilities, but they both are tied with a condition as you can see.

The prohibition of having intercourse with the wives after sleeping in the nights of fasting abrogated towards permissibility with a recommendation. And the prohibition of fighting got abrogated with an obligation. And the obligation of facing bayt ul-maqdis got abrogated with a prohibition.

And the obligation can be abrogated with another obligation like the abrogation of imprisoning the zawānī towards lashing them and expelling them, or lashing and stoning.



Section: The Verse Of Which Some Is Abrogated, What Is The Ruling Of What Remains From It?

If a verse or a narration contains two or more rulings, and then a text or $ijm\bar{a}$ comes that abrogates one of these rulings (in that text), specifies it, or turns it into a recommendation, then one must stop there. It is not permissible for a Muslim to say that the other ruling is abrogated because of the abrogation of the first ruling mentioned in one verse or one narration, nor to say that it is specified or turned into a recommendation. Rather, it remains in effect as it is, and according to what its apparent meaning necessitates, as Allāh Almighty said, "And do not pursue that of which you have no knowledge" [Al-Isra': 36]. Whoever claims that the clarification or abrogation of this ruling is connected to another ruling has lied about Allāh Almighty and claimed what has no evidence. They would then be implied, whenever they find an abrogated verse in a Sūrah, to say that the entire Sūrah is abrogated because of the abrogated verse within it. They would also be implied to say something even more egregious: that the entire Qur'an is abrogated because of the presence of many abrogated rulings within it. There is no difference between linking ('atf of) one ruling to another ruling and linking one verse to another verse, nor is there any difference between the mention of two rulings in a verse and the mention of them in a Sūrah. So, it is then necessary that one of the two rulings mentioned in the verse is abrogated, because of the reason a ruling mentioned in it is also abrogated, then it implies that all the rulings in the entire Sūrah must be abrogated as well, because the ruling mentioned with it is also abrogated. There is no difference [between these cases], and this would invalidate the entire sharī'ah (all rulings) and is apostasy from Islām. May Allāh grant us safety from that, and success comes from Allah Almighty.

Examples for this is that Allāh also said, "Those who commit immorality (unlawful sexual intercourse) of your women - bring against them four [witnesses] from among you. And if they testify, confine them (the guilty



women) to houses until death takes them or Allāh ordains for them [another] way" [An-Nisā': 15] Then Allāh abrogated the ruling of confining them and affirmed that with four witnesses.

The Messenger of Allāh # prohibited the dowry of a prostitute, the earnings of a soothsayer, the earnings of a cupper, and the price of a dog (in only one text/narration). However, the earnings of a cupper was excluded from this prohibition by the narration of the Prophet # , "Feed (from) it to your servant and your animal."116

So, those who oppose us are then implied, by this method, to permit the dowry of a prostitute and the earnings of a soothsayer, which no Muslim says.

Al-Ṭaḥāwī al-Ḥanafī said, "The ruling of prohibition on the price of dogs was abrogated by the order to kill dogs being abrogated."117

We do not know in which 'aql or by what text this man found that when it is prohibited to kill an animal, its sale becomes permissible. Does he not see that selling a free person is prohibited, and killing them is also prohibited unless they commit something that makes their blood lawful? This is a severe ignorance and a disgraceful 'aşabiyyah for his corrupt madhab. We seek refuge in Allāh from taqlīd that leads to speaking about Allāh without knowledge, without guidance, and without an enlightening book. Oh! What is the difference between him and those who oppose him and say, "Rather, when Allāh prohibits eating [an animal], He prohibits its sale"?

¹¹⁶ Sunan Abī Dāwūd 3422 | Sunan Al-Tirmidhī 1277

¹¹⁷ Sharh Ma'ānī Al-Āthār 4/58 | Sharh Al-Mushkil 12/76-83



Section: How Is The abrogated And Abrogating Known From That Which Is Not Abrogated?

It is not permissible for any Muslim who believes in Allāh and the Last Day to say about anything from the Qur'an and the Sunnah that it is abrogated, except with certainty. For Allah Almighty says, "And We did not send any messenger except to be obeyed by permission of Allāh" [An-Nisā': 64]. And He, the Exalted, said, "Follow, [O mankind], what has been revealed to you from your Lord and do not follow other than Him any allies" [Al-A'rāf: 3]. So everything that Allāh Almighty has revealed in the Qur'an or through the words of His Prophet , it is obligatory to follow it. Whoever claims that something is abrogated has claimed that an order must not be obeyed and has nullified the necessity of following it. This is a clear disobedience to Allāh and an obvious contradiction unless there is certain evidence for the validity of the claim. Otherwise, it is false and invalid. Whoever permits opposing what we have said, his saying leads to the invalidation of the entire sharī'ah (all rulings), for there is no difference between claiming abrogation in one verse or narration and claiming it in another verse or narration. According to this, nothing in the Qur'an and Sunnah would be valid, and this is an exit from Islām. Everything that is established with certainty cannot be invalidated by mere conjectures. Obedience to what Allah and His Messenger have ordered cannot be nullified except by certainty of abrogation with no doubt.

As this is established, we must look into the valid ways through which the verse or narration can be abrogated. If any of these conditions are missing, the claim of abrogation in any of the verses or *ḥadīths* is invalid.

If all the 'ulamā' of the ummah unanimously agree, without any disagreement among them, on the abrogation of a verse or narration, then the abrogation is confirmed. If they differ, we investigate the matter. If we find that both orders cannot be implemented simultaneously, or if it is certain that one occurred after the other, or if there is a clear text ruling it as abrogated,

accompanied by evidence of a prohibition after an order, an order following a prohibition, or a change from one status to another as previously clarified, then the abrogation becomes certain.

Such as that the Prophet said, "I prohibited you from visiting graves, so visit them and I prohibited you from drinking in certain containers, so drink in any container," 118 and he permitted *nabīdh* in every type of container. And another example is that it was said by Jabir, "The last of the Prophet **'s orders was to abandon (the act of) taking wudū' from what touched the fire."119 And similarly, it was narrated about the Prophet ## that he made rukhşah (permitted) for hijāmah for the fasting person 120. And tarkhīş which is the making of a rukhṣah and that is permitting something only after it was once made prohibited. And the ruling on hijāmah (as in the narration) applies for both the cupped and the cupper. These are two manners (of naskh).

Or we find a situation ($h\bar{a}l$) of which we are certain that it is abolished and invalidated (abrogated) and another situation with certainty that it is revealed, obligatory and its abolishment (replacement) for the former situation. Then there exists texts from Qur'an or Sunnah that go in accordance with the abolished (abrogated) situation which got invalidated with certainty, and after this certainty, there is no certainty about the nass that goes in accordance with the abolished state to have been before or after the abolishing, abrogating state.

If the matter is like this, then it is obligatory not to abandon what we are certain of its obligation against us and its obligation is established according to us and it is prohibited for us to return to the situation we are certain of that it got abolished. And it is established according to us its necessity for us and the invalidation of it except with a clear text that returns us to the former state which (again) abolishes that second situation. Whoever transgresses this has stood by that which he has no knowledge of and has abandoned the truth, and certainty and has used doubts and zunūn, and that is not permissible at all, then how could that then even be when Allah said, "That you may make clear to the people what has been revealed to them" [An-Nahl: 44]. And the saying of Allah, "Verily, we have revealed the

¹¹⁸ Sahīh Muslim 1977, 37, 6/82

¹¹⁹ Sunan Abī Dāwūd 192 | Al-Mujtaba 1/108 | Sunan Al-Kubrā 188, 1/105

¹²⁰ Sunan al-Kubrā 3241, 2/237 | Mu'jam al-Awsat by Al-Tabarānī 7797, 8/10

revelation and we guard it" [Al-Hijr: 6]. And the saying of Allāh, "Verily, the right path has become distinct from the wrong path" [Al-Baqarah: 256]. And the saying of Allāh, "This day, I have completed for you your religion" [Al-Mā'idah: 3], is among the decisive and conclusive evidences that it is impossible for Allāh to have left us in confusion or misguidance, not knowing whether a ruling is abrogated or *muhkam* (unabrogated). This is something we are safeguarded from falling into forever. If such confusion were possible, it would render most of the religion invalid, leaving us in continuous doubt, not knowing whether we are acting upon invalid texts from the Qur'an and Sunnah or upon the truth. And would we then question whether our obedience to Allāh and His Messenger is upon misguidance or upon guidance? Exalted is Allāh above such. It is then established with certainty that every ruling we are certain has been invalidated remains invalid forever without doubtunless a clear and established text indicates that it has been reinstated after its invalidation. Otherwise, it does not return. And all praise is due to Allāh, Lord of the worlds.

And from this chapter is what we are certain of that the permissibility of marrying more than four wives has been abolished and that marrying more than four wives is prohibited after the Messenger of Allāh with certainty. There has come an authentic *musnad* narration of the Prophet about the obligation of choosing four wives on the one that has more than four wives 121. That which the people were upon in the situation of this narration it was in accordance with the situation that was abrogated: not abandoning marrying more than four wives, what the one that entered Islām was upon who had more than four wives, because they had married the women which was not prohibited for them, then when the prohibition was revealed they chose four among them. Anyone who, after the prohibition, initiates a marriage with a fifth woman or more, or married more than four at the same time, or married two sisters, or a woman and her daughter, has disobeyed Allāh, the Almighty, and performed an act that is not permitted by Him. So, such an act is invalid, and the contract is void and annulled.

This establishes the cessation of the order for choosing four, as it was only applicable to anyone who had already married more than four before the prohibition was revealed. And also, if the obligation to choose four wives

 $^{^{121}}$ Sunan al-Tirmidhī 1128 | al-Muṣannaf by ibn Abī Shaybah 17182, 4/3 | Ṣaḥīḥ Ibn Hibbān 4156, 4157, 4158

were to apply to someone who marries five during their state of disbelief after the prohibition was issued, it does not permit such a choice for someone who enters Islām while married to two sisters or two prohibited relatives.

And from that, we are certain that, in the early days of Islām, if a man slept through the night of Ramadan, it was prohibited for him to have intercourse, eat, or drink thereafter, until this was abrogated. A narration narrated by Abū Huraira, from al-Fadl ibn 'Abbās, from the Prophet ## that he said, "If the dawn comes upon a man while he was in a state of major ritual impurity, his fast was invalidated."122

This narration corresponds to that abrogated state, and we are certain that it has been abrogated, and that intercourse is allowed until the clear appearance of dawn. So there is no way return to prohibiting intercourse without clear evidence.

And from that, we are certain that making a bequest (waṣiyyah) was not obligatory for a period in the early days of Islām. Then, we became certain that the obligation to make a bequest for parents and close relatives was revealed. Then the narration came of 'Imran ibn al-Husayn concerning the six slaves 123 which aligns with the earlier, abrogated state, where one was not obliged to bequeath to one's parents and close relatives. Therefore, we cannot use this narration to abolish the ruling of the verse that we are certain has abrogated (as an obligation) the previous state (in which it was not obligatory), nor can we revert to a state that we are certain was prohibited for us. Except with a clear text that this narration was after the revelation of the verse, and that those slaves were not relatives of the one who made the will to free them, and there is no way to ever find a clarification about that, and with Allāh Almighty's help.

It is established that everything that was in the meaning of the previous state of permitting the abandoning of the will to parents and relatives is certainly abrogated, and there is nothing authentic that establishes that it returned after being abrogated, nor is it permissible to rule by conjectures. Moreover, some Arabs owned their relatives; for instance, Harāsah was the brother of 'Antarah, and Shaddad made 'Antarah take an oath, and Harasah was a slave to his brother. And among the women of the Companions, there

¹²² Al-Sunan al-Kubrā 2936, 2/259

¹²³ Sahīh Muslim 1668 | Sunan Abī Dāwūd 3958 | Sunan Al-Tirmidhī 1364



was one whose uncle, her father's brother, sold her, and she was the *umm ulwalad* of al-Yasār al-Anṣārī.

Whoever permits abandoning the certainty from the aforementioned verse by saying that perhaps the narration of 'Imrān regarding the six slaves abrogated it, let them be content with the words of the companions of Abū Hanīfah who say that perhaps the ruling of 'arāyā (the owner of a palm tree gifts or grants the fruits of the tree to someone in need) was abrogated by the prohibition of muzābanah (Sale involving exchange of unharvested fruit still on the three) for an unknown quantity of harvested fruit of the same kind), and by their saying that perhaps applying *qiṣāṣ* with matters other than iron is abrogated because of the prohibition of muthlah (mutilating) and let them also say with the saying of those who forbid wiping over the khuffain and say that perhaps it was abrogated by the verse of ablution in al-Mā'idah. And let them take ibn 'Abbās's saying on the permissibility of exchanging one dirham for two dirhams, and let them say that perhaps the prohibition on that was abrogated by saying of the Prophet ## that usury is only in nasī'ah (deferred payment). And let them take the saying of 'Uthman al-Batti in abolishing the ruling of paying the blood-money by the relatives and let them say that perhaps the ruling of the blood-money to be paid by the relatives was abrogated by the verse of Allāh Almighty, "No soul earns (evil) but against itself, and no bearer of burden shall bear the burden of another" [Al-An ām: 164]. Let them abolish the ruling of forward sale (salam) and let them say that perhaps it was abrogated by the prohibition of the Prophet # of selling what is not in one's possession¹²⁴. And let them make istihlāl of eating of donkeys and predatory animals and say that perhaps the prohibition on them was abrogated by Allāh's verse, "I do not find in what has been revealed to me anything forbidden to eat" [Al-An'ām: 145]. If they refuse all that we have mentioned and say, "We do not declare anything abrogated except with certainty," then they have forsaken their corrupt method and likewise they are implied to accept Ibn 'Abbās's saying that the shorter verse abrogated the longer verse, and thus they must rule that the murderer among the Muslims will eternally remain in the Fire of Hell. If they refuse, they are obliged to accept the same regarding the verse of the will, and there is no difference¹²⁵.

¹²⁴ Sunan Al-Tirmidhī 1233, 1235 | Musnad Aḥmad 3/402

 $^{^{125}}$ Al-Nāsikh by Al-Naḥḥās pg. $105 \mid$ Al-Nāsikh by Abū 'Ubayd pg 265, 273

And similar is the saying regarding the breastfeeding of Sālim, for since it was connected to adoption (tabannī), and since adoption was abrogated, the ruling connected to it would also be abolished, and that every reason that is invalidated will also invalidate its cause without doubt.

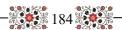
This is a mistake because there is no text nor $ijm\bar{a}$ 'nor necessity that this ruling is $makh s\bar{u}s$ for adoption only, it is instead general upon its apparent, it is not allowed to make takhṣīṣ without text or ijmā'.

These are the four methods, and there is no way to ascertain the abrogation of a verse or narration through any other means. It is either through: a certain and established $ijm\bar{a}$, historical evidence indicating that one of the two rulings came later than the other while it is impossible to apply both simultaneously, a clear text stating that one ruling abrogates the previous one and requires its abandonment, or certainty of the change of a situation that changes everything matching that situation, without any doubt. Whoever claims abrogation through any means other than these four has committed a grave sin and engaged in clear disobedience. And success is with Allah, the Almighty.

As for that which is clarified by texts itself that something is abrogated, it is the saying of Allāh, "And We did not make the qiblah you were upon except to know who would follow the Messenger from those who would turn back on their heels" [Al-Baqarah: 143] Then Allāh said, "We will surely turn you to a *qiblah* with which you will be pleased" [Al-Baqarah: 144]. This is a clear history that the qiblah which was before this was abrogated and that the direction towards the Ka bah came after that. This also has $ijm\bar{a}$ '.

Similarly, His saying, "So now have sexual relations with them" [Al-Baqarah: 187] This abrogated the prohibition of having intercourse on the nights of Ramadan.

And similar is the saying of Allāh, "Whoever witness among you the month let him fast it" [Al-Baqarah: 185] this abrogated the saying of Allāh, "And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day]. And whoever volunteers excess - it is better for him. But to fast is best for you, if you only knew" [Al-Baqarah: 184]. This is a connected transmission attributed to the Prophet # , by consensus, meaning the abrogation of the permissibility of breaking the fast and feeding the poor from (fasting in general) being a recommendation



to the obligation of fasting. Likewise, the abrogation of standing for prayer during the night was abrogated by an explicitly transmitted by $ijm\bar{a}$, from being an obligation to a recommendation.

A group of people have claimed regarding the verse, "Now, Allāh has lightened [the hardship] for you, and He knows that among you is weakness" [Al-Anfāl: 66] that this is abrogated by the verse, "If there are twenty steadfast persons amongst you, they will overcome two hundreds" [Al-Anfāl: 65].

This is a mistake because there is no *ijmā* and there is no indication of abrogation or abrogation according to us in these verses at all. Rather, it is only about the obligation of confronting the *mushrikīn*, and after the confrontation, it is not permissible for anyone on the face of the earth to turn their back on any *mushrik* except one who is maneuvering for battle (as a plan) or joining a group, as we will explain in its place, if Allāh wills. Or one who is sick or disabled, as stated in His saying, "There is no blame upon the weak or the sick or those who do not find anything to spend, if they are sincere to Allāh and His Messenger" [At-Tawbah: 91].

If they say: "Those who are weak of heart are excused because they are included (in the ruling) among the general weak people $(du'af\bar{a}')$."

It is said to them: This is a mistake, because those who are pleased to be among those who remain behind, due to their weak hearts, are condemned by the text and are not excused. And also, verily weakness of the heart has been prohibited by the saying of Allāh, "So do not weaken and do not grieve" [Āla 'Imrān: 139]. It is not possible that Allāh intended (here specifically) weakness of the body, for that is something which one is unable to prevent at all. And Allāh does not give us a duty except one which we are capable of. Weakness of heart is something that can be overcome, and if the cowardly person wanted to be steadfast, he could be, but he preferred his desires and fleeing [away from] what he will inevitably face, death, which does not help him escape from its occurrence or advance or delay. This is clear, and Allāh is the source of strength.

It is surprising for those who say that this verse permits one to flee confronted by three; Where do they get that from? Is there in the verse they mentioned any indication of fleeing or turning away in any manner or sign? The verse contains none of that at all. It only contains news of overcoming with the condition of patience and good tidings of victory with steadfastness.

And ahl al-qiyās that use verse as evidence to flee from three should be the most ashamed of people, they use against us the words of Allah, the Exalted, "Among the People of the Book is he who, if entrusted with a great amount [of wealth], will return it to you" [Āl 'Imrān: 75].

And they say to us, "That what is more than a *qinṭār* (great amount) is the same amount as a *qintār*."

So why did they not make here what is more than two to be like two? But this is how Allah deals with those who stray from His guidance, follow their desires, and turn away from the truth.

As for us, if we had found in the mentioned verses an indication permitting fleeing, we would have accepted it and submitted to the order of our Lord. However, we do not find any indication or evidence in them that permits fleeing in any way. We instead find in them that if we are patient, a hundred of us will overcome two hundred. And Allāh, the Exalted, has spoken the truth. There is nothing in this that prevents a number less than a hundred or more than a hundred from overcoming ten thousand of them, whether less or more, as Allah says, "How many a small company has overcome a large company by permission of Allāh. And Allāh is with the patient" [Al-Baqarah: 249] so, all of these are statements about the acts of Allāh, the Exalted, and His support for those of us who are patient. So the verse that says a hundred of us will overcome two hundred is merely a part of the news found in the verse that says a hundred of us will overcome a thousand. And these two verses together are part of the news in the verse that says, "How many a small company has overcome a large company by permission of Allāh. And Allāh is with the patient" [Al-Baqarah: 249]. He did not specify here any number but left it entirely general.

If someone with little understanding asks, "What is the meaning of this repetition, and what is its benefit?"

It is said to him: We have already mentioned the answer to this unnecessary and ridiculous question in the chapter about dalīl ul-khiṭāb. However, it is necessary to present some of it due to the appearance of this question. And we say, with Allāh's guidance, that this is an objection of you against Allāh, the Exalted. The meaning and benefit in this repetition is like the meaning and benefit in Allah repeating the story of Mūsa, in many places—some of which are more detailed than others, and some of which are equivalent. Just as Allah, the Exalted, repeated the mention of grapes,

pomegranates, and date palms after mentioning fruits, and just as Allah, the Exalted, repeated the order to "Establish the prayer and [especially] the middle prayer ('asr)" after mentioning the preservation of all prayers, and just as Allāh, the Exalted, repeated the verse, "So which of the favors of your Lord would you deny?" thirty-one times in a single Sūrah, not thirty times, nor twenty-eight times, nor did He repeat it in any other Sūrah other than Sūrah Al-Raḥmān. And just as Allāh, the Exalted, mentioned in one place that He is the Lord of the heavens and the earth and what is between them, and in another place, that He is the Lord of Sirius, without mentioning anything else with it. The Lord of the worlds is not questioned about what He says or does; it is only upon us to believe in everything that comes from Allāh and to accept it as it is, to adhere to its implications, and not to go beyond it. We will be rewarded for acknowledging it, for reciting it, and for accepting it as we mentioned. What greater fortune is there than this fortune that leads to Paradise and eternal success? And who seeks more than this except someone who has no 'aql? No one questions Allāh about what He does except an atheist, an ignorant person, a fool, or a fāsiq—there is no alternative. There is no benefit for one who chooses otherwise. And to Allāh belongs all praise for the guidance and in him we seek refuge from being deserted.

So if someone says, "What is the meaning of Allāh's statement, 'Now Allāh has lightened the burden for you, and He knows that there is weakness among you. So if there are from you one hundred [who are] steadfast, they will overcome two hundred. And if there are among you a thousand, they will overcome two thousand by permission of Allāh' [Al-Anfāl: 66] in the mentioned verses? And what is this lightening that Allāh has addressed us with and conferred upon us? It is necessary to seek its meaning and understand the extent of the blessing upon us in this, and what is this thing that has been lightened for us so that we may praise Allāh for it and recognize the favor upon us in it?"

The answer, with Allāh's guidance, is that this question is valid and good. The answer is that the beginning of the verse clarifies the nature of the blessing upon us and the point of lightening, which is His statement, "Urge the believers to fight. If there are among you twenty steadfast, they will overcome two hundred" [Al-Anfāl: 65]. In this verse, we are urged to fight them and are obliged to advance against them and invade their lands, even if we are only one-tenth of their number. This is the apparent meaning of the

verse, and no other interpretation can be derived from it. Then, Allah, the Most High, eased this burden and allowed us to refrain from targeting their positions if the combatants from the opposing side exceed twice our number. According to the first verse, we were in a difficult position if we did not attack them while being only one-tenth of their number. Now, the difficulty lies in not advancing against them when their number is twice ours or less. However, if their number is three times ours or more, we are relieved from the obligation to pursue them unless they attack us or the *imām* or his *amīr* calls for mobilization. This does not prevent us from choosing to advance against them even if their number far exceeds ours. In all these cases, fleeing from the battlefield is completely prohibited, even if the enemy consists of all the people on earth and only one Muslim stands against them or more. This is the point of the alleviation mentioned (meaning before it was always obligatory to attack them, now permissible and only obligatory in certain cases), and through this, the mentioned verses align with the statement of the Most High, "And whoever turns his back to them on such a day, unless strategy for battle or joining another company, has certainly incurred the wrath of Allāh, and his refuge is Hell-what an evil destination" [Al-Anfāl: 16], and with the saying of the Messenger of Allāh, "If you are called to arms, then go forth," 126 and with the *ijmā* of the *ummah* that if the enemy invades our land, it becomes obligatory for us to fight and defend.

And also, then the statement of Allah, the Mighty and Majestic, "Now Allāh has lightened [the burden] for you, and He knows that there is weakness among you" [Al-Anfal: 66] clarifies the point of alleviation which is only upon the *du'afā*' we described before only, and it is only for those who have weakness. So, this alleviation is specifically for the weak, as in His saying, "Except for the disabled ones" [An-Nisa": 95] and His saying, "There is no blame upon the weak or upon the ill" [At-Tawbah: 91].

One example of abrogation explained by the text which is conveyed by ijmā' is the saying of the Messenger of Allāh, "There is no bequest (wasiyyah) for an heir (wārith)." This abrogated the bequest for parents and close relatives who do inherit, they are heirs. The obligation to make a bequest remains for the parents and close relatives who do not inherit.

We have clarified in this book, in the chapter on the narrations transmitted from the Prophet # , in a section we spoke on the alleged

¹²⁶ Sahīh al-Bukhārī 1834, 2783, 2825, 3077



contradictions in the narrations. We have clarified the errors of those who thought they found abrogation, but is no abrogation. And with Allāh's help, success is achieved.



Section: There Is No Harm In The Abrogated Verses Being Earlier In The Arrangement Of The Muṣḥaf

There is no harm in the abrogated verse appearing earlier in the arrangement of the writing or recitation of the *muṣḥaf*, or the abrogating verse appearing later, whether within the same Sūrah or in another Sūrah that is earlier or later in the arrangement. This is because the verses and Sūrahs of the Qurʿān, as we have them now, were not arranged according to the chronological order of their revelation, but rather as willed by the Majestic and Honorable, the One who revealed it—there is no deity except Him. He alone arranged it in this manner, not delegating its arrangement to anyone else.

The first revelation from the Qur'ān was, "Recite in the name of your Lord who created. He created man from a clinging substance. Recite, and your Lord is the most Generous — Who taught by the pen. Taught man that which he knew not" [Al-'Alaq: 1-5] and then was revealed, "O you who covers himself [with a garment], Arise and warn. And your Lord glorify. And your clothing, purify. And uncleanliness, avoid" [Al-Muddathir: 1-5]. Yet both of these Sūrahs are placed near the end of the Qur'ān in terms of writing and recitation. Similarly, the last verse revealed was the verse of inheritance in Sūrah Al-Nisā', and Sūrah Barā'ah was among the last revelations as well, yet they are both placed at the beginning of the Qur'ān in terms of writing and recitation. So it is impermissible to rely on the order of composition to determine which verses abrogate and which are abrogated.

Allāh abrogated his saying, "And those who are taken in death among you and leave wives behind - for their wives is a bequest: maintenance for one year without turning [them] out" [Al-Baqarah: 240] by his saying, "And those who are taken in death among you and leave wives behind - they, [the wives, shall] wait four months and ten [days]" [Al-Baqarah: 234] according to the *ijmā* of the entire *ummah*. The abrogating verse can be positioned

earlier in the order of the Qurʿān in writing, recitation, arrangement, and composition than the abrogated verse. And this is sufficient, and with Allāh, success is achieved.

Section: Abrogation Of The Easier Order By The Difficult Order And The Difficult Order by The Easier Order.

A group of our companions and others have said, "Naskh of the easy order by a heavy order is not possible."

Those who make this claim are mistaken, for it is possible to abrogate the easy order by the more difficult, the more difficult by the easier, and a thing with its equivalent. Allāh does what He wills, and He is not questioned about what He does.

If they argue with the verse, "Allāh intends for you ease and does not intend for you hardship" [Al-Baqarah: 185].

And the verse, "And Allāh wants to lighten for you [your difficulties]; and mankind was created weak" [An-Nisā': 28].

And the verse, "And He has not placed upon you in the religion any difficulty" [Al-Ḥajj: 78].

And the verse, "Whatever a Verse (revelation) do We abrogate or cause to be forgotten, We bring a better one or similar to it" [Al-Baqarah: 106].

There is then no evidence in any of that for them.

As for the verse, "Allāh intends for you ease and does not intend for you hardship" [Al-Baqarah: 185] And the verse, "And He has not placed upon you in the religion any difficulty" [Al-Ḥajj: 78].

Then yes the entire religion is easy, difficulty ('usr) and hardship (haraj) are what one is not able to, as for what is in the capability, it is ease.

As for the verse, "And Allāh wants to lighten for you [your difficulties]; and mankind was created weak" [An-Nisā': 28].

Then yes, and there is nothing easy in the world except that it is difficult in comparison to what is easier than it, and nothing is difficult except that it is easier in comparison to what is more difficult than it. This is a matter known by sense and observation, and no one with 'aql would doubt that the five obligatory prayers are easier than fifty prayers and that if it would be only one prayer, that it would be easier for us than the five. Allāh has lightened the prayer for the traveler, making it two rak'ahs, and for the fearful, making it one rak'ah. Had He willed not to impose any prayer on us at all, it would have undoubtedly been easier. Allāh has stated that prayer is extremely heavy except for the humbly submissive to Allāh. No one with 'aql and sense doubts that fasting for one month is easier than fasting for one year, and that fasting for an hour is easier than fasting for a day. Everything that Allāh has made taklīf on us is yusr (ease) and lighter in comparison to what is more severe, which was imposed on (the nations) before us. As Allāh has ordered us to call upon Him, saying: "Our Lord, and lay not upon us a burden like that which You laid upon those before us. Our Lord, and burden us not with that which we have no ability to bear. Pardon us; forgive us; have mercy on us" [Al-Baqarah: 286].

And as Allāh has stated that He has lifted the burden from His Prophet and the shackles that were upon (the previous prophets before) him, as He says: "Those who follow the Messenger, the unlettered Prophet whom they find written in what they have of the Torah and the Gospel, who enjoins upon them what is right and forbids them what is wrong and makes lawful for them the good things and prohibits for them the evil and he releases them from their heavy burdens (of Allāh's Covenant with the children of Israel), and from the fetters (bindings) that were upon them" [Al-A'rāf: 157].

This is the very essence of ease, the essence of lightening the burden, and the removal of hardship. How does what we have been tasked with compare to what some of the people of Mūsa were tasked with, such as killing themselves with their own hands? Everything we have been tasked with is easy in comparison to that. Likewise, what was within the rulings of the Jews, such as if someone touches a corpse, they are impure until evening, and all the other burdens they were tasked with, which were made forbidden for them, but which have been lightened for us—all praise and gratitude are due to Allāh for this grace.

As for His saying, "Whatever verse We abrogate or cause to be forgotten, We bring forth a better one or similar to it" [Al-Baqarah: 106], its

meaning is only: "with what is better for you." The words of Allah do not differ in their inherent excellence, but the meaning here is "more rewarding."

If someone uses this verse as evidence to claim: "We do not abrogate the easier except with a more difficult one," then their argument is stronger in tumult than that of those who reverse this. This is because there is no disagreement that the heavier action earns a greater reward for the doer. The Prophet said to 'A'ishah regarding the 'umrah: "It is according to the extent of your effort and your spending."127

If the abrogating ruling yields a greater reward, that is only because it is more burdensome, so this verse is against them, not for them. So all of their arguments and what they use as evidence have fallen apart.

Then we say: If someone claims, "Verily Allah can only obliges us to do the easiest of things," this implies the abolishment of every single ruling, because they are all heavy in comparison to the abandoning (of) their carrying them out or limiting oneself to performing only part of each action. This is something known by sense and observation. So, the saying of those who disagree with us leads to a complete departure from Islām completely. There is no action in this world except that there is in it burden (kulfah) and difficulty (mashaqqah) As the poet said: "Is the beloved child anything but a distraction? And is the solitude with a beautiful woman anything but a burden for her husband?",128

Even in eating and drinking, there is difficulty (mashaqqah). If a person could taste delicious flavors and feel full without the effort of eating, chewing, and swallowing, it would be easier for them and less troublesome. For some, choking on their food has led to their death or near death, and many have been harmed by what enters their stomach or gets stuck between their teeth.

And the discomfort to one's stomach, leading to vomiting and causing pain because of it, or the staining of one's garment by something that falls from the hand. If we were to follow every hardship and difficulty in pleasures, it would be an extensive discussion. Then how much more so with the obligatory actions! However, hardships and difficulties vary in degrees. Allāh, the Almighty, has only lifted from us in some instances what we are

¹²⁷ Şaḥīḥ al-Bukhārī 294, 305, 1560, 1788, 5548, 5559 | Şaḥīḥ Muslim 1211

¹²⁸ Sharh Dīwān al-Mutanabbī 1/207 | Al-Tadhkirah Al-Hamdūniyyah 2/10 | Khazānah al-Adab 1/194

unable to, and He has lightened some obligations more than others. It has been narrated from the Prophet that, "Paradise is surrounded by hardships," which nullifies the claim of those who say that Allāh does not abrogate the easier obligation by a more difficult one. So it has been established that Allāh does as He wills; He abrogates the easier by the more difficult, and the more difficult by the easier, something with its equivalent, or something by completely abolishing it. He may add a new ruling without lessening another, there is no adjuster of His decision, and He is not questioned about what He does.

If they use as evidence the verse, "Now Allah has lightened the burden for you [Al-Anfāl: 66], then this is clear evidence against them, with no way around it. For making something easier can only come after it has been made more difficult. So if Allah, the Almighty, made it difficult upon us initially, what can prevent Him from making it difficult upon us later if He wills? We were once free from that initial burden, and then we were burdened by it. What then prevents it from being imposed on us again, as it was at first, or from being made even heavier? That what is sufficient for all of this is that we find things for which there is no way to deny that Allah abrogated easy things by the more difficult rulings. From that is that Allāh abrogated fasting the day of 'ashūra' with fasting the entire month of Ramadan and the abrogation of the permissibility of breaking the fast and the feeding of the poor on behalf of the broken fasts abrogated by the obligation on every healthy resident who is mature and sane knows about the month and the obligation of fasting in it. And the abrogation of the obligation of the omission of (the obligation of) ghusl on the one that has intercourse with the private part on purpose by the obligation of ghusl on him. And Allāh abrogated the permissibility of speaking in the prayer after it was permissible by a prohibition and there is no doubt that speaking during it (prayer) when something happened to a person was easier. And Allāh abrogated the omission of the obligation of ighārah and the allegiance of the Muslims to the Messenger of Allāh, under the allegiance of women by making fighting obligatory, and He prohibited khamr after it had been permissible. And He, the Exalted, said, "All food was lawful to the Children of Israel except what Israel made unlawful for himself" [Āl 'Imrān: 93]. So it is established that Allāh prohibited things for them that were previously permissible to them,

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¹²⁹ Şaḥīḥ al-Bukhārī 6487 | Şaḥīḥ Muslim 2833

and the abrogated rulings in all that we mentioned were lighter than the abrogating ones, by sense and observation. Allah, the Exalted, clarified this by informing us that there are benefits for people in *khamr* and gambling, yet He nullified those benefits for us, and no rational person doubts that the absence of benefit is heavier than its presence. And His Exaltedness abrogated the punishment of harm and imprisonment for adulteresses and adulterers with stoning and exile, and there is no doubt for anyone with 'agl that stones and whips are heavier than insult and imprisonment.

Some who oppose our view on this matter have objected, saying, "The abrogation of imprisonment for adulteresses was not unrestricted but rather conditioned upon a limit, awaiting the statement of Allah, Exalted is He: 'until death takes them or Allāh ordains for them another way' [An-Nisā': 15]."

This objection is invalid for three reasons. This objection is invalid for three reasons:

Such a condition is not found in the punishment or rebuke of adulterers, nor in any of the lighter rulings we mentioned that were abrogated by heavier ones.

Every case of abrogation in the world has this characteristic; it is only restricted by Allāh to a specific time in His knowledge. As 'Ā'ishah said regarding the obligation of standing in prayer at night: "Allāh withheld the conclusion of the verse in the heavens for twelve months, then revealed it."130

There is no difference between our Lord, the Exalted, informing us in advance that He will abrogate what He commanded after a set period, and not informing us until He actually abrogates it. In both cases, it is abrogation, whether immediate or delayed. The "way out" mentioned in the verse, which was awaited by them, is more difficult than what was initially upon them. This is because it involves stoning with rocks until death occurs, after the pain of whipping, or being exiled from the land following the pain of whipping. So the way made for them was either destruction or severe trial, both of which are more difficult than imprisonment. This is exactly the issue we disagreed upon: we allow it, while they reject it.

Some objected to the abrogation of the pledge of allegiance for women by the obligation of fighting, arguing: "Fighting was more burdensome for us in the early days of Islām due to our small numbers.

¹³⁰ Sahīh Muslim 749, 140 | Sunan Abī Dāwūd 1342, 1343 | Sunan Al-Tirmidhī 442



However, as our numbers increased, fighting became lighter, and abandoning it became more burdensome than participating in it."

If this person had any knowledge of the nature of language and the limits of speech, he would not have uttered such nonsense. It is said to them: When the verse obligating combat was revealed, did the number of people increase to such an extent that they gained a strength greater than they previously had, or not?

If he says "no," his argument collapses, for this would affirm that the situation after the revelation of the verse obligating combat—when it had not been obligatory before—was no different from the situation prior to the obligation. So any claim of increased strength as the reason for the obligation of combat is invalidated.

If he says "yes," he combines two falsehoods: first, he claims knowledge of something he knows not and lies; and second, he has not escaped our *ilzām*. For it is said to them: There must have been a period of time when their numbers had already reached the level they were at when the verse of obligation was revealed, yet combat was still not obligatory. Then, this was abrogated by the subsequent obligation of fighting.

And also, it is neither possible in the 'aql nor observed in reality that there exists a specific number, which, when reached by a group, makes them strong enough to combat all the people on earth. Nevertheless, Allāh Almighty obligated Muslims to strive against all those inhabiting the populated world, even when the Muslims at that time had not yet reached one thousand in number.

It is evident to anyone with reason that there is no difference in strength—when it comes to fighting all the people on earth—between one thousand and two thousand, or between one and two. Instead, victory depends solely on Allāh's decree. If Allāh grants victory to a single person, that person becomes capable of defeating all the people on earth, and they all would be powerless against him. As Allāh said to His Prophet , "And Allāh will protect you from the people" [Al-Māʾidah: 67]. We are certain that, had all the people confronted him, they would have fallen before him, and he would have prevailed over them all.

And some of those who oppose with us have said, "Patience in combat is heavier for the proud soul."

It is sufficient as a response against this statement by that there is in it denial of Allāh Almighty it. For He, the Exalted, addressed the Companions, may Allah be pleased with them, who were the proudest of people in their souls, the most protective in their hearts, and the most dignified in their aspirations, or He also addressed every Muslim who will come until the Day of Judgment, and they are the most dignified among the nations in soul, and most resistant to oppression, by saying, "Fighting is prescribed for you, even though it is disliked by you. But it may be that you dislike a thing which is good for you and that you love a thing which is bad for you" [Al-Baqarah: 216].

Allāh Almighty spared us the trouble and fatigue, and clarified that fighting is disliked by us, and the disliked thing is the heaviest of things. And He informed us, Glory be to Him, that the disliked, which is the most difficult, may hold more good for us than what is easier. So Allāh Almighty has ruled for us in this matter with a clear ruling, and no one is allowed to speak in this meaning with a word that contradicts our position after hearing it, and all praise is due to Allāh, the Lord of all worlds.

And some objected by saying that khamr did not use to be permissible, but rather was prohibited through the 'aql, so its permissibility was not abrogated.

We say, with the help of Allāh Almighty, that if this person were to occupy himself with reading the narrations of the Prophet, it would be better for him than speaking about religion without prior knowledge. We have narrated in the authentic narration that it was permitted before it was prohibited.

Abū Saʿīd al-Khudrī said, "I heard the Messenger of Allāh ≝ say, 'O people, Allāh is hinting at the prohibition of khamr, and perhaps Allāh will reveal an order regarding it. So whoever has any of it must sell it and benefit from it." Then Abū Saʿīd al-Khudrī said, "It was not long before the Prophet , said, 'Allāh has prohibited *khamr*, so whoever receives this verse and has any of it, let him neither drink it nor sell it." 131

We have narrated from the authentic sources that drinking it openly with the knowledge of the Messenger of Allah # was done most frequently by Ḥamzah, Sa'd, Abū 'Ubaydah ibn al-Jarrāḥ, Suhayl ibn Bayḍā', 'Abd al-

¹³¹ Sahīh Muslim 1578 | Musnad Abī Ya'lā 1056 | Sunan al-Kubrā by Al-Bayhaqī 6/11



Raḥmān ibn 'Awf, Abū Ayyūb, Abū Ṭalḥa, Abū Dujānah Simāk ibn Kharshah, Ubay ibn Ka'b, Mu'ādh ibn Jabal and others from the Muhājirīn and Anṣār, May Allāh be pleased with them. So how can this *jāhil* say that it was not permissible, and that 'aql prohibited it?

And where is the 'aql of this insane, who is entirely devoid of 'aql, compared to the 'aql of the Messenger of Allāh who saw them drinking it and did not object to it for more than sixteen years after he became a Messenger? For khamr was not prohibited until after Uḥud, which was in the third year of after the hijrah. The Companions continued to drink it in Madīnah in the presence of the Messenger of Allāh and the incidents of some of them misbehaving and committing offenses near (with the camel of) 'Alī, and confusion in prayer, are too well-known to be unknown to someone aware about the narrations. All of this was known to him and he did not disapprove of it. It is not permissible for a Muslim to say the Prophet approved of something prohibited. It suffices from this the fact that the Prophet ordered the selling of it before it was prohibited, and that its consumption is included in the benefit. And Allāh is the grantor of success.



Section: On The Abrogation of Something Before It Was Acted Upon

Most of the earlier scholars on this topic—and we do not know a need for students/seekers of *fiqh* to have this addressed—but since they have spoken, we are obligated to clarify the truth about it by the power and might of Allāh.

The correct view is that abrogation, whether it occurs after the act upon a ruling or before its act, in both cases it is possible for it to be abrogated. And Allāh, the Exalted, had abrogated from us His obligation of forty-five prayers in every day and night before anyone acted upon it. Whoever considers this to be $bad\bar{a}$ has indeed considered abrogation to be $bad\bar{a}$, without difference.

Everything they claim about the abrogation of a thing before it is acted upon returns back to them about the abrogation of a thing after it is acted upon without any difference between the two. Allāh, the Exalted, does whatever He wills. What we believe what led them to dispute this issue is their corrupt method regarding benefits (maṣāliḥ) behind rulings, and we do not believe in that, we entrust the matter to Allāh alone, the Exalted, who does whatever He wills, with no control over Him, nor can anything adjust his decisions, nor can anyone question Him. We will clarify this in the chapter about 'rationale' ('ilal) in this book, if Allāh, the Exalted, wills.

So if someone says, "What did Allāh, the Exalted then, intend for us when He ordered fifty prayers in every day and night, and then abrogated them and reduced them to five before we were ever able to carry out the order of fifty?"

It is said to him, and with Allāh, the Exalted, is success: He only intended from us obedience, submission, and the resolve to pray them, and the belief in their obligation upon us, and nothing more. Allāh, the Exalted, never intended that those prayers themselves be performed or that we carry them out. We do not deny that Allāh, the Exalted, may order something without intending it from us. Rather, He makes it obligatory, and we say that

Allāh, the Exalted, ordered Abū Ṭālib to become Muslim, but never wanted his belief to actually come into existence. And Allāh, the Exalted, has explicitly stated this in His saying, "Those are the ones for whom Allāh does not intend to purify their hearts" [Al-Māʾidah: 41] And His saying, "Indeed, you do not guide whom you love, but Allāh guides whom He wills" [Al-Qaṣaṣ: 56]. So Allāh, the Exalted, informed us that He did not obligate the guidance of Abū Ṭālib and that He intended not to guide certain people, while all of them are ordered to seek guidance.

If Allāh, the Exalted, had not abrogated the ordered matter until we acted upon it, we would have known at that time that Allāh, the Exalted, intended it to actually occur from us, just as we know that He intended the Islām of Abū Bakr, 'Umar, and the rest of those who became Muslim. We only know what Allāh, the Exalted, intends the existence of after it manifests or He informs us that it will occur. Allāh knows best, and He is the One who reveals to us from His unseen. And we were ordered to perform prayers, and many people may die before the time for prayer comes after they have reached puberty (after its *bulūgh*). Indeed, the Almighty only wanted from these people obedience and determination. Allāh Almighty never wanted those who died before the time for prayer to perform it.

Some of the predecessors who allowed the possibility of abrogation of an order before it was acted upon used the story of Al-Zubayr as evidence, where he disputed with the Anṣārī regarding the water from Maḥzūr and Mudhainib, and the other order from the Prophet was considered abrogating the first. 'Urwah ibn al-Zubair narrated that Al-Zubair narrated to him that a person from the Anṣār disputed with Zubair in the presence of Allāh's Messenger regarding the watering places of Ḥarra, from which they watered the date-palms. The Anṣārī said, "Let the water flow," but Zubair refused. The dispute was brought to Allāh's Messenger who said to Zubair, "Zubair, water (your date-palms), then let the water flow to your neighbor." The Anṣārī became angry and said, "O Allāh's Messenger, (you have given this decision) because he is the son of your aunt." The face of Allāh's Prophet changed, and then he said, "Zubair, water (your date-palms), then hold the water until it reaches the walls." 132

And they invalidated the claim of those who said about this that the first order was for the sake of reconciliation, and al-Zubair relinquished some

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 $^{^{132}}$ Şaḥīḥ al-Bukhārī 2359 | Şaḥīḥ Muslim 2357 | Sunan Abī Dāwūd 3637

of his rights. The predecessors argued against them that this is not permissible to say, because the ruling of the Prophet # are all rightful and obligatory. According to the words of Allāh Almighty, "So let those beware who go against his order, lest a trial afflict them or a painful punishment" [24:63]. He did not specify one order over another. If this were possible in this narration, then it would be possible for anyone to say about any judgment given by the Messenger of Allāh, "This is for the sake of reconciliation, not in reality." This is *kufr* from the one who says it.

The predecessors that spoke against them spoke the truth in what they said.

Some of them said, "If abrogation of something would be possible before acting upon it, then it would be possible before belief."

The answer: A person might believe in the obligation and correctness of something yet not perform it, like some disobedient Muslims, while a hypocrite or show-off might perform something they do not believe in. This matter is known through observation. So, it is false to say that belief is connected to action, and it is invalid what this objector has suggested, that if abrogation before action would be possible, it would be permissible before belief (*i 'tiqād*).

If they say, "If something could be abrogated before being acted upon, then believing in it would be good and obedience, while acting upon it would be ugly and disobedience. This is impossible."

The answer is that this is a weak confusion because they have conflated the ruling two different times. The belief in something is only correct if it is done when it has not been abrogated. And, if it has been abrogated, then what is obligatory is the belief that it is disobedience if done, and the belief that it was once obedience at another time. This is not impossible.

If they say belief, " $(i 'tiq\bar{a}d)$ is an action (fi 'l)."

It is said to them: *i* 'tiqād is an act of the soul/self (nafs) alone, without the body sharing in it. And action ('amal) is the act (fi l) of the self/soul (nafs) by moving the body, so it is something different from belief. The Messenger of Allāh distinguished between them by saying, "Actions are only by intentions," making the intention, which is belief, separate from action.

The predecessors who went with our view in this matter used arguments, among them is the order of the Almighty to Ibrāhīm # to



slaughter his son, and Ibrāhīm's statement, "Indeed, this is a clear test" [37:106].

They said, "This is a clear indication that what was ordered was abrogated before it happened (before the order was carried out), because some said he was only ordered to move the knife on his son's throat. But the Almighty invalidated their statement with Ibrāhīm's words, 'Indeed, this is a clear test' [Aṣ-Ṣāffāt: 106]. And if he was not ordered to kill him, then moving the knife on his throat would not have been a trial. So, with the words of Ibrāhīm it is clear that he was only ordered to kill his son and end his life by slaughtering him, then this was abrogated before its execution."

This is a valid argument that cannot be dismissed.

If someone asks, "Tell us what Allāh intended from us if He orders us with something, then abrogates it before us carrying out the order. Did He intend for it to be carried out then it appeared to Him (to invalidate it) before the carrying out of the order, or did He intend that it must not be done. If Allāh does not want something, He detests and dislikes it and is not pleased with it. So, according to your view, Allāh orders us with what He detests and dislikes and imposes on us what He does not wish to happen from us."

It is said: Allāh ordered what He ordered of that, and there is no intended meaning for it except obedience to the order only, and He never intended the occurrence of the action, and He prohibited it before it could happen from us. And He is not questioned about what He does.

And we do not deny that Allāh can order us with an order that He knows after a while He will prohibit and dislike/hate (*sukht*). What we deny is that Allāh orders what He dislikes at the time He orders it; this is not possible. But as for ordering us with an order that He knows He will later prohibit and dislike after a period, this is necessary. This is the description of all abrogations and every order tied to every time, and with Allāh's help.

And some have objected to His order of fifty prayers then reducing them to five by saying, "The order is only obligatory on us once it reaches us, and that order had not yet reached the Muslims."

Some of the *salaf* among those who held our view answered to this, "Allāh had indeed conveyed His order of that to His Messenger, who is our master and $im\bar{a}m$, so the fifty were obligatory for him upon receiving the order, then it was abrogated before he acted upon it."

If they say, "Allah never intended by the fifty except five, granting ten rewards for each one," and they use as evidence with what is at the end of the narration from His saying, "It is five and it is fifty; the saying is not changed with Me."133

The answer, with the help of Allāh, is that this statement is an explanation of our words, not their words. This is because five prayers cannot be fifty in number; rather, they are five in number and fifty in reward. Initially, fifty were required in number, corresponding to fifty in reward. Later, Allah removed the burden of performing fifty while preserving the reward, proving that what was omitted is not the same as what was obligatory. The evidence for this is Allāh's repeatedly reductions: first to forty-five, then to forty, then to thirty-five, then to thirty, and so on, reducing by five each time until it remained five. This makes it clear that what was initially obligatory is not the same as the final settled obligation. Their objection, therefore, collapses. All praise is due to Allāh, the Lord of the Worlds.

Some also objected by saying, "Perhaps the Prophet # prayed the fifty prayers before they were abrogated, or that perhaps the angels prayed them before their abrogation."

This is severe ignorance. If the one who said this had any knowledge of the narrations, he would not have made this mistake. The isrā' (night journey) occurred in the jawf (last one third) of the night, and the morning (dawn) came only after the Prophet # had returned to Mecca. He was back in Mecca before the twilight (shafaq) disappeared, after the setting of the sun, and before the rising of the sun on that night. And the fifty prayers were (would) only be obligatory for a single day and night (while he was there for a very short time). Also, the Prophet mentions in his own words in the narration that he did not cease returning and coming from his Lord, the Most High, to Mūsā. As for the angels, the Messenger of Allāh swas not sent to them; rather, some of the angels are messengers from Allāh to our Prophet. The Messenger of Allāh sof us was only sent to the jinn and humans who dwell below the lowest heaven, and this is something on which there is no disagreement among Muslims with the texts found in the Qur'an and narrations addressing these two kinds only. He was sent to them alone.

The angels are in a place where there is no night (as there are prayers at night), rather, they are in the heavens, which are the celestial spheres, and

¹³³ Sahīh al-Bukhārī 342, 349

in the chair (*Kursī*) and beneath the Throne, and the night only reaches the sphere of the moon, which is the lowest heaven. And the *jinn* are struck by shooting stars if they come near it, according to the verse of Allāh, "And We have certainly beautified the lowest heaven with stars and have made [from] them what is thrown at the satans and have prepared for them the punishment of the Blaze" [67:5]. So it is established that the angels are not obliged [to pray] our prayer because they do not have with them night or day; rather, It is merely clear, spread lights. The prayers are only obligatory during the times of the night and the day.

Some of those who preceded have used as evidence this by saying to those that reject it, "What do you reject? Is it the abrogation of what has been done or the abrogation of what has not been done? Or the abrogation of an order with any act, there is no fourth option.

If they say, 'The abrogation of what has been done,' they are referring to something impossible because what has been done is complete and finished, and there is no way to revert it. If they say, 'The abrogation of what has not been done,' they are affirming the abrogation of something before it has been done, which is the same as what they have invalidated, because what has not been done is not the same as what has been done by necessity.

If they say, 'The abrogation of the order,' then there is no difference between abrogating the order before people have acted upon it and abrogating it after people have acted upon it, because the ordered action is, in any case, different from the order itself. The order pertains to what is decreed by Allāh alone, while the action is what we do. So, there is a difference between them, as you see." And This is an undeniable, necessary evidence.

They also used as evidence against them by saying, "When an order is found and is acted upon, then abrogation of it is permissible. There is no doubt that many people have not acted upon it who have not yet come into existence. They were addressed by that order when it was revealed, so it was abrogated before they acted upon it. There is no difference between allowing the possibility of such abrogation before some of the orders have been acted upon it and before any of them has acted upon it." And this is also a necessary argument that cannot be avoided.

A questioner asked me, saying, "If Allāh, the Exalted, ordered something, saying, 'Do this thing for eight consecutive days,' or 'Do this thing forever,' is it possible to abrogate this order or not?"

I answered: Abrogation is possible in this case because it pertains to the abrogation of something before it has been acted upon. There is no difference between being ordered to perform fifty prayers and being ordered to do something forever or for eight days, and then having that order abrogated before the action is completed.

Falsehood does not apply to orders and prohibitions; falsehood is only possible in (mere) statements (akhbar). If the order were expressed with such a specification (taḥdīd) using the wording of a statement (khabar), abrogation would not be possible because it would then be a pure lie, as falsehood can occur in reports.

This is different from an order expressed with the wording of a khabar not linked to a specified time. Abrogation is possible in such cases because it would not be a lie. Instead, abrogation would then only clarify the time during which we were obliged to perform that action.

As for what is expressed in the form of a statement (khabar) forever, it cannot be abrogated. Allah said in the narration, "It is five, and it is fifty. The word does not change with Me."

If it were to change, it would be a lie, just as the narration states that, "'Umrah is part of Ḥajj until the Day of Judgment." And the narration about mut 'ah, which is prohibited by the prohibition of Allāh and His Messenger until the Day of Judgment. If these two orders were abrogated, then these two khabars would be lies, as they would negate what we were informed would exist until the Day of Judgment. And success is granted by Allāh.



Section: The Abrogation Of The Qur'ān By The Sunnah And The Sunnah With The Qur'ān

The people have differed in this, after they concurred on the possibility of *Naskh* of the Qur'ān with the Qur'ān and the possibility of *Naskh* of the Sunnah with the Sunnah. A group said, "A Sunnah is not abrogated by the Qur'ān and nothing from the Qur'ān is abrogated by the Sunnah."

Another group said, "All of that is possible, the Qur'ān can abrogate the Qur'ān and the Sunnah with the Sunnah and the Qur'ān by the Sunnah."

This is the position we hold, which is correct and whether the abrogation of the Qur'ān by the Sunnah is with $taw\bar{a}tur$ or conveyed with $\bar{a}h\bar{a}d$, all of that can abrogate each other, the verses of the Qur'ān abrogate the Qur'ān and the verses of the Qur'ān by the Sunnah.

The certain evidence for that is what we clarified in the chapter about narrations from this book from the obligation of obedience to what has come from the Prophet $\stackrel{\text{\tiny{de}}}{=}$ that this is just like obedience to what has come from the Qur'ān without difference, and that all of that is from Allāh, all of it is the same $yaq\bar{\imath}n$, "He does not speak of desire, it is only a $wah\bar{\imath}$ revealed" [53:3-4].

As his speech (the Sunnah) is $wah\bar{\iota}$ from Allāh and the Qurʿān is $wah\bar{\iota}$, then the abrogation of $wah\bar{\iota}$ with $wah\bar{\iota}$ are the same in the aspect that they are $wah\bar{\iota}$. So the possibility of naskh of $wah\bar{\iota}$ with $wah\bar{\iota}$ is then established and the Sunnah is $wah\bar{\iota}$ so naskh of the Qurʿān is possible by the Sunnah and Sunnah by the Qurʿān, whether the narrations are $taw\bar{a}tur$ or $khabar\ al-w\bar{a}hid$.

Those who refuse the possibility of this use as evidence the verse, "It is not for me to change it of my own accord" [10:15].

This is not a hujjah for them because we did not say that the Messenger of Allāh $\stackrel{\text{def}}{=}$ changed it of his own accord, and whoever says this is a $k\bar{a}fir$. Rather, we say that the Prophet changed it by a $wah\bar{i}$ from Allāh, the

Exalted, as Allāh ordered him to say, "I only follow the waḥī revealed to me" [6:50].

So it is established with this text the validity of the abrogation of $wah\bar{\iota}$ by $wah\bar{i}$, and the Sunnah is $wah\bar{i}$, so it is possible for the Qur'an to be abrogated by the Sunnah and the Sunnah by the Qur'an.

They also use the verse, "This is] a Book whose verses are uḥkimat and then presented in detail from one who is] Wise and Aware" [11:1]. So they say, "All verses are then uhkimat which are then muhkam and the muḥkam are unabrogated verses, so nothing from the Qurʿān is abrogated."

The answer: This is mere hurā', even if that meaning would be affirmed under the meaning of 'uhkimat'—which it is not—then yes, all verses are muhkamah except if they are abrogated as exceptions just as other exceptions such as hurūf al-muqatta ah which are completely unknown in meaning and makhṣūṣah verses which are all not muḥkamah.

They also argued with the saying of Allāh, the Exalted, "Whatever verse We abrogate or cause to be forgotten, We bring a better one or similar to it" [2:106].

They say, "The Sunnah is not similar to the Qur'an and also not better than it."

This is also not a *hujjah* for them because also, some of the Qur'ān is not better than the remaining of the Qur'ān, the meaning is only, "We bring better than it for you or similar to it," there is no doubt that acting upon the abrogating $(n\bar{a}sikh)$ is better than acting upon the abrogated $(mans\bar{u}kh)$ before it is abrogated. And the reward of acting upon the abrogating can be similar to the reward of acting upon the abrogated before it was abrogated.

It might also be more than it, except that the benefit of the verse is that we are saved from acting on the $n\bar{a}sikh$ being lesser in reward than acting upon the mansūkh before it was abrogated because, instead it can only be more than it or similar to it, there is no other way other these two ways as a grace from Allah, there is no deity except him.

And also the Sunnah is similar to the Qur'an in two aspects, first is that both are from Allāh, based on what we recited earlier, the saying of Allāh, "He does not speak of desire, it is only a wahī revealed" [53:3-4]. And the second is them being equal in the obligation of obedience because of the saying of Allāh, "Whoever obeys the Messenger has obeyed Allāh" [4:80]. And the saying of Allāh, "Obey Allāh and obey the Messenger" [4:59].



And if they say, "And the saying of Allāh, 'We bring,' the damīr (noun) is for Allāh, so it is obligatory that nothing abrogates the Qurʿān except what comes from Allāh which is the Qurʿān. We do not find any Sunnah that abrogated the Qurʿān."

The answer: The pronoun in the verse, "We bring," is not a *ḥujjah* for them because both the Qurʿān and the Sunnah come from Allāh – Exalted be He. Allāh says, "Nor does he speak from [his own] inclination. It is not but a revelation revealed" [53:3-4]. As for the third we have clarified.

But the two only differ in that nothing other than the recited Qur'ān is written in the mushaf, and nothing other than the Qur'ān is recited, and only in its $i'j\bar{a}z$.

There are no two things in the world except that they are similar in one aspect and different in another; there is no other way by necessity. It is impossible for them to differ in every aspect or to be similar in every aspect. And since all this is established, then acting according to the abrogating narration is better and more rewarding than acting according to the abrogated verse, as we said before, and there is no difference. And Allāh said, "And a believing woman is better than a polytheist, even though she might please you." [2:221] The polytheist might be better in beauty and in some aspects of character and the like, even though the believing woman is better in the sight of Allāh. This is something known by sense and observation. With Allāh's guidance.

And they also used as evidence the saying of Allāh, "Allāh eliminates what He wills or confirms, and with Him is the Mother of the Book" [13:39].

There is no *hujjah* in this for them because everything that came from the Prophet was affirmed by Allāh, the Almighty, who is the Eliminator of what He wills to eliminate from His orders, and all is from Allāh. He eliminates what he wants from his orders all of that is from Allāh. This verse is an evidence for our position against them, in that He, the Exalted, eliminates what He wills in general, making the Sunnah and the Qurʿān in that generality.

They also use as evidence the verse of Allāh, the Exalted, "We have revealed to you the *dhikr* that you may make clear to mankind what was revealed to them" [16:44]. They said about it, "Clarifier cannot abrogate."

This is a mistake for two reasons. The first is what we have clarified at the beginning regarding abrogation, that abrogation is one type from the

various types of bayān (clarification) because it clarifies the abolishment of the abrogated order and the confirmation of the abrogating order.

The second reason is that their claim that the clarifier cannot abrogate is a claim without evidence, and every claim lacking certain evidence is corrupt and invalid.

They also use as evidence the verse, "And when We change a verse in place of another verse, and Allāh knows best what He reveals" [16:101].

There is no *hujjah* in this for them because He, the Exalted, did not say that He does not change a verse except in place of another verse. He only informed us that He changes one verse in place of another. We do not deny this; rather, we affirm it and say that He changes verses and also performs other acts. which the change of non-recited is (words/acknowledgments/actions of the Prophet) wahī in place of verses with other evidence.

And everything we used as evidence to invalidate their corrupt sayings regarding dalīl ul-khitāb it invalidates their use of this verse.

And they argued with the saying of Allāh, the Exalted, "Do not hasten with the Qur'ān before its revelation is completed to you, and say, 'My Lord, increase me in knowledge" [20:114].

They said regarding the verse, "If Allah prevented him from clarifying the Qur'an before the revelation was completed to him, then preventing him from abrogating it should be even more imperative."

The answer: This is false and deception because we never said it is possible that the Messenger of Allāh would abrogate verses of the Qur'ān before the revelation of their abrogation was completed to him. Anyone who says this, in our view, is a kāfir. We only say that if his Lord, the Exalted, revealed to the Prophet non-recited revelation (words of the Prophet) abrogating a verse, the Messenger of Allāh swould then disclose it to the people through his speech, making it a conveyed Sunnah and a binding ruling, a conveyed revelation.

It does not harm that it is not called Qur'an and not written in the mushaf, just as it does not harm other rulings established by the Sunnah without explicit mention in the Qur'ān, such as the number of raka 'āt of the *ṣalāh*, the manners of $zak\bar{a}h$, what is prohibited in $buy\bar{u}$, and other rulings all of these are from Allah, the Almighty.



Some of them argued with the saying of Allāh, the Exalted, "Say, the Holy Spirit has brought it down from your Lord" [16:102]. They say about it, "This is not applied except to the Qurʿān."

This is all falsehood and slander from its speaker. Every revelation that came to the Prophet with a ruling from the rulings, then the Holy Spirit descends with it (that waḥī/rulings to the Prophet) from his Lord. The text of the narration states that Jibrīl, descended and prayed, and the Messenger of Allāh, prayed. Then Jibrīl prayed, and the Messenger of Allāh, prayed, and so on until he taught him the five prayers¹³⁴. While this is not something from the Qurʿān (the angel still was sent down with it to the Prophet) yet the Holy Spirit brought it down, as you see.

So, everything they argued with is invalidated, and success is granted by Allāh, the Exalted.

And al-Shāfi'ī, may Allāh have mercy on him, said, "If Allāh, the Exalted, revealed to His Prophet a matter that abolished a preceding Sunnah, then the Prophet sestablishes a Sunnah that would abrogate the first Sunnah (he made which Allāh abolished)."

Some of his companions objected to this statement, they said, "If it would be possible to say that about a $wah\bar{\imath}$ revealed that abrogates a preceding Sunnah and that then the Prophet acts according to it that this action (itself) abrogates his previous Sunnah, then his action would be a Sunnah, and with this, a preceding Sunnah would be abrogated (by an action) from him. Then the actions of people would abrogate a previous Sunnah. And this is a mistake."

This is a valid objection. The Messenger is obliged to submit to the order of his Lord, the Exalted. The $n\bar{a}sikh$ is only the order emerged from Allāh. Not the action that must happen, and the one (or that which) only comes with obedience to that obeyed order.

It is said to those who oppose us on this matter: Does the Messenger do or say anything on his own without $wah\bar{\iota}$ from Allāh for that to do so? If he says, "Yes," he has apostated, for his Lord, the Exalted, declared it a lie him by His saying, "Nor does he speak from desire. It is not but a $wah\bar{\iota}$ revealed" [53:3-4]. And by His saying, ordering him to say, "Say, [O Muḥammad], 'I only follow what is revealed to me'" [6:50] Since it is

¹³⁴ Sunan Abī Dāwūd 393 | Sunan al-Tirmidhī 149

¹³⁵ Al-Risālah by al-Shāfi'ī pg. 107-108

established that his actions and his sayings is nothing but revelation, and since revelation abrogates revelation, the Sunnah and the Qur'an abrogate each other.

Some of those that have become misguided this era regarding alnāsikh wal-mansūkh have claimed that there are no abrogations in the Qur'ān as we have it now. Those who believe in this argue by saying, "We must take all the meanings of the words, so for example the verse about obligation of the wasiyyah for the parents and the relatives, it is not abrogated by the narration that there is no wasiyyah for the inheritor because if that narration would be authentic, because it is possible that the parents are maybe infidels and if they are infidels then they do not inherit so they get waşiyyah as in the verse, so then the verse you used is not abrogated. And also the verse, 'And upon those who are able [to fast but with hardship] a ransom [as substitute] of feeding a poor person [each day]' [2:184]. It is possible to apply this ruling for a very old man that maybe has cancer or something or sickness. And how can he make up the fast if he is sick, if he will die? And also there cannot be abrogations in the Qur'an because there is *ijmā* 'that all that is in the Qur'an must be obeyed. And likewise the verse about the husband that passes away and leaves behind wives, one verse mentions one year and the other four months and ten days, these are also in that manner not abrogated. And the same for the verse, 'Those who commit immorality of your women, bring against them four witnesses from among you. And if they testify. Confine them to houses until death takes them or Allāh ordains for them a way' [4:15] This is also not abrogated because it is possible to have ta zīr against dangerous women or gays or lesbians so they will be confined till death takes them. And also the religion of Allah is only the sayings of the Prophet not his actions."

The answer: This is severe misguidance, deception and falsehood. As for taking all the 'meanings' from the words of the texts, then it is the truth, except that the examples mentioned are a clear transgression of this method, as there is a difference between applying the ruling to all meanings in the language of a word and applying it to all possible situations, the possibility of one or more situations for the ruling in very specific cases does not negate validity of an abrogation, because we have clarified before than an abrogation is only the replacement of a ruling with another ruling, two or more different rulings for different times, whether some situations in the previous ruling still



happen in <code>darūrah</code> situations or not because it is only <code>yaqīn</code> that the ruling got replaced and that is all an abrogation as we clarified before, and Allāh said, Allāh, "Allāh blots out what He wills and confirms (what He wills)" [13:39]. And we have also said that even a part of a verse can be abrogated there is no issue in any of that.

Allāh never made it a condition that for a *naskh* to occur that every single possible situation most cease to exist, this is something impossible and a condition that is not from the book of Allāh.

As for the abrogation of *waṣiyyah* to the parents and close relatives, specifically those that inherit, then verily part of the verse, "Prescribed for you when death approaches [any] one of you if he leaves wealth [is that he should make] a *waṣiyyah* (bequest) for the parents and near relatives" [2:180] got abrogated by the authentic narration of the Prophet ## that there is no *waṣiyyah* for the inheritors¹³⁶.

If it is said, "You narrated from the Prophet ## that there is no inheritance for the infidels, then why not specify the narration of no waṣiyyah is only for the infidels?"

The answer: We have clarified that abrogations occur when there is certainty that orders changed and <code>waṣiyyah</code> is among the rulings the rulings that without any doubt changed with no <code>takhṣīṣ</code> possible as people never ceased to die in the time of the Prophet. And we know that the rulings of inheritance were revealed around the fourth year after the <code>hijrah</code>, and the narration of no <code>waṣiyyah</code> for the inheritors was without disagreement generation after generation, in the eighth year after the <code>hijrah</code> after the <code>fatḥ</code> of Makkah and was without any doubt also acted upon as people do not cease to die, this is among the clearest of abrogations, which no one except a fool rejects.

Some people said, "Only the verses about the inheritance abrogated this verse about *wasiyyah*."

The answer: This is a mere mistake, because abrogation is the abolishment of a ruling and the opposite to it, there is not in the verses about inheritance that which prevents *waṣiyyah* for the parents and the near relatives, as it is possible that they can inherit and he can give *waṣiyyah* to them with that from one third.

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¹³⁶ Sunan al-Kubrā by al-Nasā'ī 6437, 6/247

Those who say the Qur'an cannot be abrogated by the Sunnah have forgotten themselves as they make the narration of 'Imrān ibn al-Ḥuṣayn regarding the six slaves an abrogation to the wasiyyah of the parents and the relatives, so they affirmed what they negated at other places and affirmed as valid what they invalidated at other places. We have spoken about the falsehood of that, so we are not in need to repeat it.

There is no difference between them in their claim of that and between the one that says, "Instead the verse abrogated the narration about the six slaves."

As for the abrogation of ransom for being unable to fast, they are the verses, "Decreed upon you is fasting as it was decreed upon those before you that you may become righteous" [2:183] And the verse, "A limited number of days. So whoever among you is ill or on a journey [during them] - then an equal number of other days [are to be made up]. And upon those who are able [to fast, but with hardship] - a ransom [as substitute] of feeding a poor person [each day]. And whoever volunteers good [i.e., excess] - it is better for him. But to fast is best for you, if you only knew" [2:184].

This verse was only revealed in the earlier form of fasting which has been abrogated, and that was that it was a ruling for fasting in the first revealment of fasting the month of Ramadan that whoever wished could fast, and whoever wished could break the fast and feed a poor person for each day missed. Fasting was ruled better. This is the text of the verse. Salamah ibn al-Akwa' said, "We were in Ramadan during the time of the Messenger of Allah : whoever wished could fast, and whoever wished could break the fast and atone with feeding a poor person, until this verse was revealed, 'So whoever sights [the new moon of] the month, must fast' [2:185] Salamah ibn al-Akwa' said, "When this verse was revealed, 'And for those who can fast with hardship, they have [a choice to give] food for one poor person' [2:184], Whoever wanted to break the fast and atone [by feeding the poor] could do so until the verse that followed was revealed, which abrogated it."137

So the ruling got abrogated as anyone with eyes can see. And obliging the old or sick to give a ransom is directly against the ruling of Allāh, they are indeed obliged to make up the fast, and they are only burdened each day to fast as long as they are able to, if they are not able to they break the fast And if they get sick they make up for that day.

¹³⁷ Sahīh Muslim 1145

And then there are dozens of verses available in the Qurʿān about the rulings of the previous Prophets that are all abrogated without any doubt from anyone with the least amount of 'aql, we have mentioned all of those verses in the Chapter about the rulings of the previous Prophets in this Book.

And that which also clarifies our view with certainty is the abrogation of the verse, "So if they come to you, [O Muḥammad], judge between them or turn away from them" [5:42] Verily this verse got abrogated by the verse, "And judge, [O Muḥummad] between them by what Allāh has revealed" [5:49].

If it is said, "Show your certain evidence on the abrogation of this."

We say: Yes, it is authentically narrated from Ibn 'Abbās that he said, "Two verses were abrogated from this Sūrah: the verse about the necklaces (ornaments) and the saying of Allāh, the Exalted, 'So if they come to you [O Muḥammad], judge between them or turn away from them' [5:42]. The Messenger of Allāh, was given a choice: if he wished, he could judge between them, and if he wished, he could turn away from them and refer them to their own rulings. Then the verse was revealed, 'And judge between them by what Allāh has revealed' [5:49]. So the Messenger of Allāh him, was ordered to judge between them according to what is in our Book." 138

This is *musnad* because Ibn 'Abbās informed about the revealment of the verse about that. So this verse got without any doubt abrogated, while it is possible with their corrupt method to claim that it is possible to sometimes turn away from them and that the choice could remain to rule them or not rule them. While the verse still got abrogated with certainty, so their method is entirely invalid.

And from that which clarifies the abrogation of the Qur'ān by the Sunnah, is the verse of Allāh, "Confine them [i.e., the guilty women] to houses until death takes them or Allāh ordains for them a way" [4:15].

Then the Prophet \cong said, "Take from me! Take from me! Allāh has made for them a way: The virgin with virgin are lashed one hundred times and exiled ($taghr\bar{t}b$) for one year, the non-virgin with non-virgin are lashed one hundred times and stoned." ¹³⁹

So the saying of the Prophet # which is not Qur'ān abrogated the confinement which is mentioned in the Qur'ān.

¹³⁸ Al-Mu'jam al-Awsat 8482, 8/228

¹³⁹ Sahīh Muslim 1690, 12, 5/115

If someone says, "That confinement was only abrogated by the verse, 'The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes" [24:2].

It is said to him: You are mistaken because this narration clearly necessitates that it was before the revelation of the verse of lashing, as it clarifies the way that Allāh mentioned and ordered them to listen to that way.

And also, the narration includes exile and lashing, and that is not mentioned in the verse cited. So, the narration is indeed the true abrogator, especially if our opponent is from the followers of Abū Ḥanīfah, al-Shāfiʿī, or Mālik, for they do not see against the non-virgin any lashing, they only believe in *rajm* only¹⁴⁰, so based on their false saying it implies that the verse mentioned has no place in the abrogation of harming and confining (*habs*) which used to be the *hadd* on the fornicators and fornicatresses.

If someone among them says, "The harming and confinement were not abrogated except what was narrated, 'The Shaykh and the Shaykhah stone them."

The answer: You have just now abandoned your saying and have concurred with us on the possibility of naskh of the recited Qur'ān by that which is not similar to it in recitation (the Sunnah) and that which is not similar as affirmation in the mushaf. As you have allowed the possibility of that, then similar are the words of the Prophet by the texts of the Qur'ān $wah\bar{\imath}$ which is not recited, that is not a preventative for the occurrence of naskh.

Some of them have incapacitated here and said, "The verse, 'The fornicator and fornicatress, lash each one of them one hundred lashes' [24:2] means only those that are not married only. Just as the slave and slave-girl have exited this text similarly the married are not part of this ruling."

It is said to them: If you allow departing this ruling (<code>hadd</code> of <code>zinā</code>) by your mere claims as evidence that the reason is merely that others are not part of the ruling, then do not reject the saying of Abū Ḥanīfah, "Verily the one that marries his own mother while he knows she is his mother then has intercourse on her, they are not part of the ruling of <code>zinā</code>." And do not reject the view of Mālik, "Verily the one that has intercourse with his own paternal aunt and maternal aunt by means of slavery while he knows that they both are <code>maḥramah</code>, they are not part of the ruling of <code>zinā</code>."

 $^{^{140}}$ Al-Inṣāf 10/129-134 | Al-Furūʻ 11/139 | Al-Kāfī 4/48 | Al-Mughnī 20/17-19

While you make $l\bar{u}t\bar{t}$ part of the ruling of $zin\bar{a}$. These are form the wonders that they take out from the ruling whom the name $z\bar{a}n$ occurs, and that they make part of the ruling whom the name $z\bar{a}n$ does not apply, this is open disobedience to Allāh and opposition to his order and ruling in the religion without certain evidence.

As for the reason used that because of slaves are made an exception, then that is only because of additional evidence, as long as there is no additional evidences as with your case then no $takh s \bar{s} s$ is possible.

And as for their claim that the verse, "Those who commit immorality $(f\bar{a}hisha)$ of your women, bring against them four witnesses from among you. And if they testify, then confine them in the houses till death takes them or Allāh makes for them a way" [4:15] is not abrogated because it is possible to apply $f\bar{a}hisha$ to homosexuality and to lesbianism and to dangerous women and that $ta'z\bar{\imath}r$ can be applied to them and that that can be confinement till death takes upon them.

This is from the exact same $hur\bar{a}$ ' we previously clarified! And $f\bar{a}hisha$ in the language means any ugliness and transgression in speech and action, to excess and increase, and stinginess, if they claim generality here because of its meaning then they are implied to apply it for every single $f\bar{a}hisha$ said or uttered and that the ruling for all of that is confinement till death occurs. And how can any of this be when the Prophet only ordered as punishment for the effeminate men and manly women to exit them from the houses! 141

By necessity fāḥisha means there without disagreement intercourse. That which clarifies with certainty as we mentioned before that this is about intercourse and that it is abrogated is that the Prophet said about this exact verse, "Take from the! Take from me! Verily Allāh has made for them a way, the virgin with the virgin one hundred lashes and exiling for one year and the married with the married one hundred lashes and the stoning." So the saying of the Prophet which was not Qurʿān abrogated the confinement which is mentioned in the Qurʿān. So this is as you can see as we clarified before that abrogation only is the change of orders with specific times as took place in this narration and as the Prophet said connected to the verse.

And among the cases where the Sunnah abrogated the Qur'ān is the saying of Allāh, "And wipe your heads and your feet (arjulakum) up to the

¹⁴¹ Sahīh al-Bukhārī 5886

ankles" [5:6] The qirā'ah with khafd of arjulikum and and with fath ariulakum. Nāfi', ibn 'Āmir, Ḥafṣ, al-Kisā'ī recited with naṣb and the remaining with jarr. Both cannot be except if it is conjoined also with the heads in wiping (meaning conjoined with the ruling of wiping the heads so the feet also take the ruling of wiping). Because it is not allowed at all to intervene between the ma'tūf (conjunct) and the ma'tūf 'alayh (the initial conjunct). Because that is a problem and deception and misguidance, not a clarification. You do not say, "I hit Muhammad and Zayd, and I passed by Khālid and 'Umar," while you mean that you hit Muhammad at all. So since the Sunnah has come with the washing of the two feet, it is established that wiping is abrogated from the two feet.

And in that manner was the practice of the companions for they used to wipe over their feet, until the Prophet said, "Woe to the heels and backs of the feet from the fire."142

Likewise, Ibn 'Abbās said, "The Qur'ān was revealed with the wiping."

Another certain decisive evidence is that naskh is the takhṣīṣ (not a mere *takhṣīṣ*) of certain times with an emerged ruling, excluding other times. While they permit $takh \bar{s}\bar{s}$ with the Sunnah some $a'y\bar{a}n$ (rulings), such as the saying of the Prophet ,# "There is no amputation except in a quarter of a dīnār or more," and that which is similar to it. So what is the difference between permitting the takhṣīṣ (of what is general in the Qurʿān) from the rulings by the Sunnah and permitting the takhṣīṣ of specific times by it? What necessitated that one be prohibited and the other allowed?

If they say, "Takhṣīṣ is not like naskh because takhṣīṣ does not abolish the *nass* while *takhsīs* abolishes the entire text."

It is said to them: If it is possible to abolish some of the *nass* by the Sunnah and some nass is a nass, then there is no difference between abolishing some other nass by it; all of that is the same, and there is no difference between any of it.

They have admitted, and the narrations established, that many verses of the Qur'an, their recitation has been abrogated completely, and it is not possible for these to be abrogated by the Qur'an, because if they would be abrogated by the Qur'an, that Qur'an would be present and recited (as there is now an available Sunnah abrogating it). But there is no mention in any of

¹⁴² Sahīh al-Bukhārī 60, 96, 163 | Sahīh Muslim 241



the recited text of the abrogation of such and such a verse that was completely abrogated, so it is necessary that what was abrogated is exactly what we allowed to be abrogated of the Qurʿān, by the Sunnah.

If they say, "The abrogation of the recited Qur'ān was only abrogated by [the process of] making to forget."

It is said to them: This is a mere claim invalidated by everything we mentioned. And making to forget that is not the Qur'ān; rather, it is an act from Him, the Exalted, and an order that it not be recited.

And among the Sunnah that is abrogated by the Qurʿān is the Ṣulḥ of the Prophet with ahl ul-ḥudaybiyyah till a fixed period. Then Allāh abrogated that in Ṣūrah Barāʿah, and it is not allowed for us to make ṣulḥ with a Mushrik except on Islām only, except ahl ul-kitāb, it is allowed to make ṣulḥ with them on that they pay the jizah with humility and Allāh invalidated all of those shurūt and those fixes periods all of them.

Some of them have said something that makes the children laugh, they said, "The mere actions of the Prophet are not from the religion, even if it is established that the action of the Prophet cocurred after his prohibition or obligation of something, in such cases that act is specific for the Prophet and no one else. The evidence that it is specific for him, is his action."

So first he claims the mere actions of the Prophet are not from the religion of Allāh, then he uses as evidence to make a ruling specific to the Prophet his mere action! How does this idiot not see how he fell into the exact thing he rejected one sentence before, is there anything more astonishing than this?

So what we have said that there are abrogated verses in the Qur'ān and that the authentic Sunnah, whether *khabar al-wāḥid* or others, and whether it is a saying of the Prophet , an action or his acknowledgment, can abrogate the Qur'ān and that the Qur'ān can abrogate the Sunnah and the Sunnah can abrogate the Sunnah and the Qur'ān can abrogate the Qur'ān is entirely established and every single other claim is entirely invalidated, and all praise is for Allāh.

Section: The Abrogation Of An Action By An Order And An Order By An Action

We have clarified that everything the Prophet $\stackrel{\text{def}}{=}$ did from the matters or what he said from it then it is $wah\bar{\imath}$ from Allāh, and also what is authentically attributed to him that he ordered something or prohibited something and what he acknowledged.

Some people said, "His actions are not from the religion and what is attributed to him is not from the religion, because Allāh said, 'And he does not speak of desire, it is only a revelation revealed' [53:3-4], so the religion is only what he says not what he does, because the Prophet forgot many things with his action, so whatever he does after he prohibited it, that cannot abrogate the prohibition and that act is then specific for him."

We will not by the will of Allāh, the Most Exalted, clarify in a manner that resolves all of this tumult so we say: Verily everything the Prophet does, says, acknowledges, is authentically attributed to him is from the religion of Allāh, the *wahī*.

Allāh said, "I did not do that of my own accord" [18:82]. So the actions of the Prophet were from the $wah\bar{\iota}$.

And Allāh said, "I only follow what is revealed to me" [6:50].

And Allāh said, "And he does not speak of desire, it is only a revelation revealed" [53:3-4].

And Allāh said, "There has certainly been for you in the Messenger of Allāh an excellent example" [33:21]

And Allāh said, "And whatever the Messenger has given you - take; and what he has forbidden you - refrain from" [59:7]

And the Prophet said, "By Allāh, I hope that I am the most fearful of Allāh, the Mighty and Majestic, among you and the most knowledgeable of what I avoid (doing)." ¹⁴³

¹⁴³ Sahīh Muslim 1110, 79, 3/138



There is *ijmā* on the *tawthīq* of Abū Yūnus *mawlā* Ā'isha.

So the Prophet $\stackrel{\text{def}}{=}$ informed us that everything he does and avoids is from the $wah\bar{\iota}$.

And 'Ā' isha said about the Prophet **, "And indeed, the Messenger of Allāh ** would sometimes refrain from doing an action that he loved to do, out of fear that people might act upon it, and it would then be made obligatory for them." ¹⁴⁴

And a man kissed his wife while fasting during Ramaḍān and felt severe distress because of it and said, "We are not like the Messenger of Allāh ". Then the Messenger of Allāh said, "Why did you not inform him that I do that?" 145

'Ā'ishah said, "The Messenger of Allāh did something and allowed a concession by that. This reached some of his companions, and it was as though they disliked it and refrained from doing it. When this reached him, he stood to deliver a sermon and said: 'What is the matter with people to whom something has reached about me wherein I allowed a concession, and they disliked it and refrained from it?"¹⁴⁶

Anas said, "A group of the companions of the Prophet saked the wives of the Prophet about his private acts of worship. Some of them said: 'I will not marry women,' others said: 'I will not eat meat,' and others said: 'I will not sleep on a bed.' The Prophet praised Allāh and glorified Him, then said: 'What is the matter with people who say such and such? I pray and I sleep, I fast and I break my fast, and I marry women. Whoever turns away from my Sunnah is not from me." 147

And we mentioned before that the Prophet sobliged rulings with his mere gestures, such as in the narration of Ka'b ibn Mālik with Abū Ḥadrad when the Prophet gestured with his hand to indicate the amount of debt that he wanted to lower¹⁴⁸.

These are all $nu \circ \bar{u} \circ$ affirming that everything from the Prophet \cong is from the religion of Allāh.

¹⁴⁵ Muwatta' Mālik 1020, 3/415

¹⁴⁴ Sahīh Muslim 718, 77, 2/156

¹⁴⁶ Şaḥīḥ Muslim 2356, 127, 7/90

¹⁴⁷ Şaḥīḥ Muslim 1401, 5, 4/129

 $^{^{148}}$ Şahīh al-Bukhārī 457, 2418, 2424, 2706

And what establishes this further are the acknowledgments of the Prophet which no one refuses except an infidel.

The Prophet $\stackrel{\text{def}}{=}$ said, "The married with the married (for $zin\bar{a}$) are to be lashed one hundred times and stoned." But then he stoned Mā'iz and did not lash him 150, so that of him abrogated the lashing on whom stoning is affirmed.

Another action of the Prophet $\stackrel{\text{def}}{=}$ is the toy seen by him $\stackrel{\text{def}}{=}$ at 'Ā'ishah's place, which was a horse with wings, despite his prohibition of images $(ta\$w\bar{\imath}r)^{151}$. And when 'Ā'ishah cut the curtain into two cushions, the Prophet $\stackrel{\text{def}}{=}$ reclined on them without showing any rejection. And then the Prophet $\stackrel{\text{def}}{=}$ chose what was best in this and selected it for 'Ā'ishah and Fāṭimah, may Allāh be pleased with them. This is an acknowledgment of him as you can see, no one with the least amount of 'aql says this is specific for the Prophet $\stackrel{\text{def}}{=}$ nor that it is not from the religion of Allāh.

And also the Prophet $\stackrel{\text{def}}{=}$ prohibiting praying standing when the $im\bar{a}m$ prays sitting 152, but then he $\stackrel{\text{def}}{=}$ prayed sitting in his illness in which he died, and Abū Bakr prayed standing as a repeater beside him, and he $\stackrel{\text{def}}{=}$ approved that 153. So it is established that this abrogated the obligation of sitting for the one that repeats loudly the sayings of the $im\bar{a}m$ specifically. If he wishes, he may pray sitting, which is better according to us, or if he wishes, he may pray standing, both of which are permissible and good. And this is also as you can see the action of the Prophet $\stackrel{\text{def}}{=}$ from the religion of Allāh, nor is it specific for him.

And from that, it is also established that the Prophet $\stackrel{\text{deg}}{=}$ stood for the *jināzah*, but then abandoned that 154.

And from that, it is also established that the Prophet said, "Pray as you have seen me pray." Then he did that which he did not used to do and abandoned some of what he used to do.

¹⁴⁹ Sunan Abī Dāwūd 4415, 1416

¹⁵⁰ Sahīh Muslim 1692 | Sunan Abī Dāwūd 4422, 4423, 4424

¹⁵¹ Şaḥīḥ al-Bukhārī 6130 | Şaḥīḥ Muslim 2440

¹⁵² Şaḥīḥ al-Bukhārī 647 | Şaḥīḥ Muslim 623

¹⁵³ Sahīh Muslim 418, 95, 2/22

 $^{^{154}}$ Şaḥīḥ Muslim 962 | Sunan Abi Dāwūd 3175 | Sunan al-Tirmidhī 1044 | Sunan ibn Mājah 1544



And in this manner there are many of such narrations. All of these are actions of the Prophet and his acknowledgment to what occurs around him, all of them are revelation from Allāh, no one refuses these except an infidel.

And we have also clarified before that the actions of the Prophet \cong regarding the shedding of blood are obligations, and that they are from the religion of Allāh. And it was from the mere actions of the Prophet \cong to lash the one that consumes *khamr* forty times ¹⁵⁵.

And as for their claim that the actions of the Prophet are not from the religion of Allāh because he forgot some things, then yes no one with a modicum amount of knowledge of the narrations is unaware that the Prophet would forget by his actions and also by his sayings, the Prophet said, "May Allāh have mercy on him, he reminded me of a verse I forgot."

So the Prophet ** would forget by his sayings just as he would forget by his actions without any difference.

And Allāh said, "We will make you recite [O Muḥammad], and you will not forget, Except what Allāh may will" [87:6-7].

So it is established that every single action, acknowledgment and saying of the Prophet is from the religion of Allāh, except that which is specified out from it, from the matters he forgot (the mere act of forgetting, not what is forgotten) or from the matters he told us that it is not from the religion.

As 'Ā'ishah narrated, "The Prophet heard some voices and said, 'What are these voices?' They said, 'They are pollinating the palm trees.' He said, 'If they do not do it, it would be fine.' So they stopped doing it, and the dates turned bad. They mentioned that to the Prophet, and he said, 'If it is something of your worldly affairs, then you know best, but if it is something of your religion, then it is up to me."

Here 'Ā'ishah and Anas, left no ambiguity in their narration and informed that the Prophet made it known to us that we are more knowledgeable about what benefits us in our worldly affairs than he is. In such matters, he would consult his companions (in matters that are permissible to do and to abandon). They informed that the Prophet placed

¹⁵⁵ Sunan al-Tirmidhī 1443

¹⁵⁶ Ṣaḥīḥ Muslim 788, 225, 2/190

 $^{^{157}}$ Musnad by al-Bazzār 6992, 13/355 | Sharḥ al-Mushkil 1722, 4/424

matters of our afterlife under his own authority, not under anyone else's. The matter of the afterlife is religion and the sharī'ah alone, and he did not delegate this to anyone else.

So every single thing specified by the Prophet ## that it is not from the religion, then it is not from the religion, whether it is from his speech or actions. So the issue is entirely resolved and all praise is for Allāh, the Most Exalted.

And Allāh does whatever he wants, at times he reveals, sends down orders with a recited revelation and at times with revelation conveyed, not recited and at times with a revelation acting upon it and not recited and also not conveyed, at times Jibril comes to him with wahī, there is no adjuster of His decision. So it is possible for the order of the Prophet sto be abrogated by his action and his action by his order and it is possible for the Qur'an to be abrogated by all of that and it is possible for all of that to be abrogated by the Qur'an, all of that is the same.

The same is for the thing the Prophet saw and acknowledged and did not reject, while before that a clear prohibition had preceded it, this is an abrogation of that prohibition, because the Prophet si is obliged to convey, and to reject the *munkar* and the acknowledge the *ma'rūf*. And to clarify that which is necessary, he is $ma's\bar{u}m$ from the people and from opposing/contradicting the order of His Lord, the Most Exalted. Since all we mentioned is established.

We are certain that if we know that if he knows (the occurrence) of a situation which he had prohibited and (also) then (had) taught it but does not change it, that then the prohibition got abrogated and that it has returned being the truth, permissible, ma'rūf, not a munkar (as he did not only prohibit but also taught it before he permitted it again).

And as for when only a prohibition has preceded (without anything additionally related to it) and the Prophet then afterwards sees it or knows it then acknowledges it, then that is only a clarification that it is supposed to be understood as a karāhah. Because it is not allowed for anyone to say regarding anything from the orders, "This is abrogated!" Except with certain evidence, as all of it is obligatory to be obeyed, what we are certain is the obedience towards it, so it is prohibited for us to oppose it just because someone says it is abrogated. If this would be allowed to accept that without certain evidence then all of the sharā'i' would be invalidated because the



saying of Zayd, 'Umar, Mālik, al-Shāfi'ī, Abū Ḥanīfah that something is abrogated is not better than the saying of everyone on earth that it is abrogated or *matrūk* or *makhṣūṣ*.

Allāh has said, "Say, 'Bring your certain evidence is you are truthful" [2:111].

Whoever says regarding anything from the orders of Allāh or the orders of the Prophet $\mbox{\@model{#}}$, "This is abrogated!" Or "This is abandoned" or "This is $makh \mbox{\@model{$v$}} \bar{u} \mbox{\@model{v}}$ " or "This is not acted upon" has said, "Abandon that which your Lord has ordered you or your Prophet $\mbox{\@model{#}}$ and do not act upon it, take my saying and obey me contrary to what you are ordered."

The right of the one that says such is to disobey him, and not to look into his sayings except with certain evidence from texts or $ijm\bar{a}$ as we have preceded in the chapter of how to know the muhkam from the $mans\bar{u}kh$.

And among what we mentioned that the Prophet $\stackrel{\text{\tiny{de}}}{=}$ prohibited, then saw it and did not disapprove of it, is his prohibition of standing when praying behind a seated person. Then the Prophet $\stackrel{\text{\tiny{de}}}{=}$ prayed, in the illness in which he passed away, seated, and the people were behind him standing, and the Prophet $\stackrel{\text{\tiny{de}}}{=}$ did not disapprove of that. So, it is confirmed that the first prohibition was a recommendation unless it was done out of exaltation of the $im\bar{a}m$, in which case it is prohibited, as the Prophet $\stackrel{\text{\tiny{de}}}{=}$ clarified on the day he prayed when he rode the horse of Abū Talḥa and fell.



Section: When Does A *Naskh* Occur And From Those Distant From The Place Of Revelation

Some people said, "The abrogation occurs (becomes necessary) at the time of the revelation because what is abrogated, as we have clarified, is the previous order of Allāh, not the actions of those that are ordered. Except that, the absent one is not blamed or threatened until the abrogating order reaches him. Likewise are all other orders that have not been abrogated, they are binding on everyone, whether near or far, and on those who have not yet been born. But blame and warning are lifted from those who have not received the order until it reaches them. Once it reaches them, if they obey, they are praised and rewarded; if they disobey, they are blamed and deserve the threat. And if they act according to what was abrogated without knowing of its abrogation, they receive one reward because they did *ijtihād* and were mistaken, as the Prophet said regarding this."

As for us, we say: The abrogation is not necessary except if it reaches, and that which clarifies out position is the saying of Allāh, the exalted, "That I may warn you thereby and whomever it reaches" [6:19]. The ruling only becomes necessary/obligatory after it reaches.

If someone to whom the $mans\bar{u}kh$ ruling has reached, being distant from the Messenger of Allāh $\stackrel{\text{\tiny def}}{=}$ but the $n\bar{a}sikh$ ruling has not reached him, and he abandons the $mans\bar{u}kh$ ruling which had reached him, while he has no knowledge of the $n\bar{a}sikh$ one and acts upon the $n\bar{a}sikh$ ruling (while only having known the $mans\bar{u}kh$ ruling), then he bears the sin of neglecting ($mutas\bar{a}hil$) an obligation, but not the sin of abandoning ($t\bar{a}rik$) an obligation. It is not permissible for someone who knows that a ruling has been abrogated to enforce the previous ruling on someone whom the abrogation has not reached. It is not permissible to judge an ignorant person according to the same standard as a knowledgeable person.

The example of this is a man who encounters another and kills him with the intention of *hirābah*, then it turns out that the person he killed was

the murderer of the man's father or was a polytheist combatant. This man bears the sin of intentionally killing a Muslim, except that there is no *diyah* obligatory against him and also no retaliation. As it is known that he only killed (in the end) who it is not prohibited to kill, because he did not kill a Muslim whose blood is prohibited on him, there is only upon him the sin of the intention to kill the Muslim on purpose, but did not carry out what he intended. The difference between the two sins is significant, as one is merely an intent, while the other is an action.

Similarly, if a man meets a woman and assumes she is not his wife and then copulates with her, then finds out that she is actually his wife, he does not bear the sin of $zin\bar{a}$, and if someone makes qadhf of him for that, they are subjected to the hadd of qadhf and the $q\bar{a}dhif$ is with that a $f\bar{a}siq$, and that man bears the sin of intending to commit $zin\bar{a}$, but there is no hadd nor is the word $f\bar{a}siq$ applied on him.

It has been authentically narrated from the Messenger of Allāh $\stackrel{\text{\tiny def}}{=}$, "Whoever intends to commit a bad deed but does not carry it out, it is not written against him." ¹⁵⁸

If a man whom the obligation to face *bayt al-maqdis* in prayer reached but the abrogation of that obligation did not reach him, but he then still prays towards the *Ka'bah*, his prayer is invalid due to his frivolity (it is useless, *'abath*), not because he prayed to other than the *qiblah* (he is obliged at that moment, for his situation).

And obedience to Allāh occurs only after knowledge of the obligatory order, not before it, and there can be no real obedience ($t\bar{a}$ 'ah) to Allāh except with the intention and purpose of performing an act after it is ordered and knowing that it is obligatory on him. Otherwise, it is merely frivolity (useless, 'abath) and he is not called in the language $t\bar{a}$ 'i' at all. And for him is only the sin of being mustashil, doing a prayer to other than the qiblah.

An example of this now is if a man is in a desert, and his $ijtih\bar{a}d$ leads him to face a certain direction (for the qiblah), but he deliberately chooses to face another direction, and it turns out that the direction he chose is indeed the correct qiblah. He is still frivolous (' $\bar{a}bith$, an act of no value) in his prayer and a $f\bar{a}siq$, even though he prayed in the correct direction.

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¹⁵⁸ Sahīh al-Bukhārī 6491

Likewise, the prayers of the people of *qubā* and those in Abyssinia towards bayt al-maqdis were all valid complete prayers, even though the naskh of the qiblah had already occurred and changed to the Ka bah for those whom the ruling had reached, because they did not know of the change. But their reward for their prayer is two rewards not one.

As for the one whom the ruling reaches, then he forgets it, or he makes (wrong) ta'wīl of it, then their reward for their prayer is one, because they did *ijtihād* and were mistaken in what is from Allāh. They are ordered to face the Ka bah, but they are not blamed and also no sinners in abandoning that, but they are excused with ignorance. This is very evident, and Allāh is the source of strength. The people of qubā' and those in Abyssinia were not like that (they did not get one reward for a mistake, but two as they fulfilled all obligations as it reached them), because their obligation was acting upon what reaches them till the *naskh* reaches them.

And we have clarified this in other places in our book, that the one who is mistaken with his ijtihād is better in the sight of Allāh than the mugallid that is correct. This is also what we have said regarding all acts of 'ihādāt.

If someone asks about our position on the case where an agent (wakīl) is dismissed by their principal (muwakkil) or the principal dies, and the agent then carries out what they were appointed to do after being dismissed, while he does not know that he has been dismissed, or after the death of the one who appointed them with a task without knowing of their death, we say to them, with the help of Allāh Almighty: Allāh, the Exalted, said, "No soul earns except against itself, and no bearer of burdens will bear the burden of another" [6:164] And the Prophet said in an authentic narration, "Your blood, your wealth, your honor, and your skin are for each other prohibited." So, any action carried out by the agent after their dismissal, while unaware of it, is valid because the one who dismissed them did so without informing them, causing harm. The Prophet also said, "Whoever harms others, Allāh will harm them with that."159

He is prohibited from causing harm (mudārrah). As for what the agent executes after the death of their principal (without a preceding order from him), whether they are aware or unaware of the death, it is null and void, for he earns against others explicit text or $ijm\bar{a}$, and $qiy\bar{a}s$ is not permissible

 $^{^{159}}$ Sunan Abī Dāwūd 3635 | Sunan al-Tirmidhī 1940 | Sunan ibn Mājah 2342

at all. Every ruling has its own ruling, and these matters are not a single category where the ruling is the same. Except if it is that the agent was appointed to deliver a deposit, debt, or right to another. In such a case, their actions are valid, whether they knew of their dismissal or not, or whether they knew the principal had died or not, because what was done is a right owed to the recipient (the creditor), not to the one delivering (carrying it on behalf of the other) it. So, they were not acting on behalf of another but performing an obligatory act that everyone must do, whether ordered or not, because it is an upholding of justice. Allāh, the Exalted, said, "O you who have believed, be persistently standing firm in justice" [4:135] And Allāh, the Exalted, said, "And cooperate in righteousness and piety, and do not cooperate in sin and aggression" [5:2]. Among righteousness or just is to ensure that each person receives what they are rightfully entitled to, whether it be their property, rights, respect, or any other due.

As for the judge and the trustee whom the $am\bar{v}r$ dismisses, it is not permissible for the $im\bar{a}m$ to neglect the affairs of the Muslims by leaving them without someone to enforce their judgments. But, he must write or recommend to the judge or governor, "If my mandate comes to you, then withdraw from our work." If he does not do so, then any ruling executed by the dismissed judge before being the dismissal reaches him is valid, because he is not mukallaf with knowing the unseen. And the $im\bar{a}m$ has wronged by dismissing him without appointing another, and oppression is rejected.

If someone (before he is an agent) sells the property of another or it is ruled by a judge, then he rules and that ruling coincides that the owner of that sold property had appointed/authorized him before he sold what he sold, and the agent did not know of it or it coincided that the *imām* had appointed the judge to a position who ordered that regarding that property, but he did not know (that he was appointed as a judge), then whatever he did is invalid and nullified because they did not comply with what they were ordered, but rather they were disobedient, because obedience is an action from the actions and the actions are with intention, and there is no intention for these two in what they did was only as it is not ordered to.

As we mentioned before about someone who prayed in a direction and did not doubt it was not the *qiblah*, and it turned out to be the *qiblah*, his prayer is invalid because he did not intend the obedience that is ordered. Similarly, if someone sold something and it turned out to be his property or

he inherited it or had a right to it, that sale is forever invalid. The same applies to a gift or charity if he gave it or donated it. Likewise, if he was a slave and freed him, it is all to be returned because he did an act, without in any of them the intention that permits for him to do it. There is no action except with intention.

And as for someone who encounters a woman and thinks she is a stranger, then copulates with her, and she turns out to be his wife, she deserves the full mahr and is lawful to her husband that divorced her thrice (note: this is not about whether a divorce occurs or not, it is only whether it was an actual intercourse between the husband and wife). Because there is no intention required for copulation. The Prophet # had stoned for copulation in kufr (the person in the state of kufr and there is no intention for the infidels). If he married her while sane and then became insane and copulated her during his insanity, she deserves the full *mahr* from his property without difference of opinion, and the child born from it is legitimate without difference. It is established that for copulation there is no intention required by ijmā.

And if someone fasts Ramadan without knowing it and it coincides with Ramadan, it does not count for him. Similarly, if he prays without knowing if the time has entered, it does not count. Because these actions require a specific intention linked to them; the action is only valid with that intention. If mixed with another intention or the intention is missing, it is invalid. Also, for prayer specifically, if it involves actions that invalidate it, which is 'abath. And for $zak\bar{a}h$, if given without the intention that it is $zak\bar{a}h$, it does not count.

The death of the principal (muwakkil) means the dismissal of his agent $(wak\bar{\imath}l)$ completely, whereas the death of the imam is different to that. And his death does not constitute the dismissal of his officials ('ummāl) until the succeeding *imām* dismisses them, because the property of the agent has passed to his inheritors. And Allah, the Almighty, said, "And no soul knows what it will earn tomorrow, and no soul knows in what land it will die. Indeed, Allāh is Knowing and Acquainted" [6:164] And because the Messenger of Allāh died while he had officials in Yemen, Baḥrain, and other places. No two Muslims disagreed that his death did not constitute the dismissal of those he had appointed until Abū Bakr dismissed some of them. And qiyās to make these two the same in ruling is invalid, these two issues are distinguished by both textual and $ijm\bar{a}$, and there is no way to gather them.



Section: Abrogation By *Ijmā* '

A group of people claimed that $ijm\bar{a}$ is established on the matter that the punishment of the obligation of killing is abrogated for the one who consumes *khamr* for the fourth time.

This claim is false because 'Abdullah Ibn 'Umar and 'Abdullah Ibn 'Amr both say that he should be killed and they say, "Bring him to us, and if we do not kill him, then we are liars." And we say the same, and with Allāh is success.



Section: The Answer Against Those Who Permit Abrogation Of The Qur'ān And Sunnah By *Qiyās*

Some people have permitted the abrogation of the Qur'ān and the Sunnah by *qiyās*. This is a statement that causes the skin to shudder. *Qiyās* is invalid and false, and the discussion on the falsehood of all *qiyās* has a large place in this book, by the will of Allāh. It is the most astonishing of astonishing things that those who speak this grave matter prevent/prohibit the abrogation of the Qur'ān by the Sunnah. Is there anything more in reversing the truth than this?

And if $qiy\bar{a}s$ is false, then it is not permissible to use it or to abandon the truths because of it, and Allāh is the source of strength.

Some people have permitted the abrogation of the Sunnah by the statement of a companion. This is *kufr* from the one who says it and an exit from Islām, due to the saying of Allāh, the Exalted, "These are the limits of Allāh, so do not approach them" [2:187] and His saying, "Today I have completed for you your religion" [5:3] This is a denial of the Almighty, and whoever denies and permits anyone to add to the religion, change it, or detract from it has apostated. Who is more misguided than one who believes that someone other than the Messenger of Allāh can nullify, by his own opinion and will, a religion that the Prophet brought from Allāh, the Mighty and Majestic? And with Allāh is success.

And also the Ummah unanimously agreed, without any disagreement, that it is not permissible for anyone to oppose a $mutaw\bar{a}tir$ narration from the Messenger of Allāh \ref{a} by their own reasoning. A khabar $al-w\bar{a}hid$, when it is authentic according to those who accept it, is just like a $mutaw\bar{a}tir$ narration from the Messenger of Allāh \ref{a} in the obligation to follow it, and there is no difference. Whoever permits its abrogation by reasoning or its opposition by $qiy\bar{a}s$ has contradicted himself and gone against the $ijm\bar{a}$. And there is in this what is in it, and Allāh is the source of strength.



Chapter Twenty: The *Mutashābih* In The Qurʿān And The Difference Between That And The *Mutashābih* In The *Aḥkām*

Allāh the Exalted said, "He it is Who has sent down to you the Book; in it are verses that are clear—they are the foundation of the Book—and others that are others unknown ($mutash\bar{a}bih\bar{a}t$). But those in whose hearts is deviation follow that which is not clear of it, seeking discord and seeking its meaning ($ta'w\bar{t}l$). And no one knows its meanings except Allāh. And those who are firmly grounded in knowledge say, 'We believe in it; all is from our Lord.' But none will take heed except people of understanding" [Qur'ān 3:7].

Ta'wīl is the clarification of something, the meaning of something.

Muḥkam is that which is clear, it is possible to know it as it is clear.

Muṭashābih is that which cannot be known at all, its meaning is unknown.

'A'isha said, "The Messenger of Allāh recited the verse, 'He it is Who has sent down to you the Book; in it are verses that are clear—they are the foundation of the Book—and others that are others unknown (mutashābihāt). But those in whose hearts is deviation follow that which is not clear of it, seeking discord and seeking its meaning (ta'wīl). And no one knows its meanings except Allāh. And those who are firmly grounded in knowledge say, 'We believe in it; all is from our Lord.' But none will take heed except people of understanding' [Qur'ān 3:7] The Messenger of Allāh said, 'When you see those who follow that which is not clear of it, they are those whom Allāh has named, so beware of them.'" 160

Al-Nu'mān Ibn Bashīr said, "I heard the Messenger of Allāh say—and Al-Nu'mān pointed with his finger to his ears—'The *ḥalāl* is clear, and the *ḥarām* is clear, and between them are unknown (*mutashābihāt*) which

¹⁶⁰ Sahīh al-Bukhārī 4547

many people do not know. So whoever avoids the doubtful matters clears himself in regard to his religion and his honor. But whoever falls into doubtful matters falls into the *harām*, like a shepherd who grazes around a sanctuary, nearly grazing therein. Truly, every king has a sanctuary, and truly, the sanctuary of Allāh is His prohibitions." ¹⁶¹

And Allāh the Exalted said, "Do they not then reflect on the Qur'ān? If it had been from other than Allah, they would have found within it many contradictions/differences" [4:82].

And Allah the Exalted said, "Why did not from each group of them a tā'ifah (at least one) go forth, that they may get understanding in the religion" [9:122].

We find that Allāh, Exalted is He, has urged us to reflect (tadabbur) on the Qur'an and made it obligatory to understand (to have tafaqquh) it and travel the lands for this purpose. And we found that He, Exalted is He, has prohibited following its mutashābih (unclear) parts. And we find that the Prophet informed us that the *mutashābihāt* matters, which lie between clear *ḥalāl* and clear *ḥarām* are not known by many people, which makes it a *faḍl* for those who understand it. So we are certain that what Allah has prohibited us to follow, is different from what He has ordered us to follow, reflect upon, and to have *tafagguh* in it. And we are certain without doubt that the doubtful matters, of which having knowledge of the Prophet # praised, are different from the mutashābihāt matters which he warned (prohibited) against following. This is that which in the $ma'q\bar{u}l$ cannot be understood otherwise. As it is not possible for us to be tasked (ordered, to be mukallaf) by the Exalted to seek something but at the same time being prohibited from seeking it. As we know this, it became obligatory upon us to seek out the *mutashābih* that we were ordered to seek, so that we may gain understanding of it, and to know which things are the mutashābih that we were forbidden from following, so that we may refrain from seeking it.

We then look into the Qur'ān and pondered it as we were ordered by Allah the Exalted, and we found that it has come with matters, from them is tawhīd and the obligation of believing in it. That is then something we are obliged to believe in and reflect on. So we know that this is not from the mutashābih which we are prohibited from following and seeking.

¹⁶¹ Sahīh Muslim 1599



Among the matters is the truth of prophethood and the obligation to believe in it, so we know that this is not among the $mutash\bar{a}bih\bar{a}t$ that we are prohibited from following and seeking.

Among them are the *shara'i'* (any rulings), the obligatory, the prohibited, the recommended, the disliked, and the permissible, all of which we are obliged to follow and seek. We are then certain that this is not from the *mutashābih* we are prohibited from following.

And among them is *tanbīh* (warning/reminder) from Allāh, this is also from that which we are ordered to reflect (have *tadabbur*) on, by his saying, the Exalted, said, "Do they not look at the camels, how they are created?" [88:17] and His saying, "Those who remember Allāh while standing, sitting, and lying on their sides, and reflect on the creation of the heavens and the earth" [3:191], He the Exalted, praised them. We are then certain that this is also not among the *mutashābihāt*.

Among them are the past stories narrated as a lesson for us, which we were ordered to reflect upon, as He, the Exalted, said, "There was certainly in their stories a lesson for those of understanding" [12:111] We are then certain that this is also not among the *mutashābihāt* that we are prohibited from following.

And among them is a promise for which we were ordered and urged to seek in order to earn it, and a threat from which we were warned. All of this is something we are ordered to reflect upon and strive so that we may strive to seek Paradise and flee from Hell. We are then certain that this is not among the *mutashābihāt* that we were forbidden from following.

So as we know that everything we mentioned is not *mutashābih*, and we know with certainty that there is nothing in the Qur'ān except that it is *muḥkam* (clear) or *mutashābih* (unknown) and we are certain that everything we mentioned is *muḥkam*, since we know that with certainty, we know by necessity that that which is other than what we mentioned is the *mutashābih*. So we look into that to know what that is so we can avoid it and not seek its meaning. We only seek it to know what it is, not its description nor its meaning. So we do not find in the Qur'ān anything other than what we mentioned, except for the disjointed letters (*ḥurūf muqaṭṭa'āt*) that appear at the beginning of some chapters, and the oaths (*aqsām*) that appear at the beginning of some chapters as well. So we know with certainty that these two

types are the *mutashābihāt* that we are prohibited from following, and the Prophet * warned is from following it.

And likewise, we found that 'Umar severely reprimanded Sabigh for asking about the meaning of wa-dh-dhāriyā t^{162} .

So it is by necessity established that these two types are the (only) mutashābihāt that we were forbidden from seeking their meaning, as nothing remains after what we mentioned that we were ordered to follow except these two types, and nothing else remains.

So it is prohibited for every Muslim to seek the meanings of the disjointed letters that appear at the beginnings of the Sūrahs, such as kāf-hāyā-'ayn-ṣād, hā-mīm-'ayn-sīn-qāf, nūn, 'alif-lām-mīm, ṣād, and ṭā-sīn-mīm. It is also forbidden for every Muslim to seek the meanings of the oaths (aqsām) that appear at the beginnings of the Sūrahs, such as wān-najm, wadh-dhāriyāt, waṭ-ṭūr, wa-l-mursalāt 'urafā, wa-l-'ādiāt ḍubḥā, and similar ones.

Some have claimed, "The mutashābih refers to the rulings of the Our an over which there is disagreement."

This is a gross mistake, because this statement is a mere claim and ra \bar{i} from the one saying it, with no decisive evidence to indicate its validity. And also in matters of disagreement, there is no other way than that the truth must exist in some of what has been said and be clear to those who seek it. The certain evidence for this is His saying, "If it had been from other than Allāh, they would have found within it much contradiction" [4:82], and His saying, "That you may make clear to the people what was sent down to them" [16:44]. So clarity is guaranteed and exists for those who seek it sincerely, and Allāh, Exalted is He, will guide them.

And also, the rulings over which there is disagreement are obligatory upon us to seek out their meaning, to seek their true ruling, to protect it, and to act upon them. As for the *mutashābih* we are forbidden by the text from following it and seeking its meaning. So it is invalid to consider the matters of disagreement among the mutashābihāt. As that is invalidated, it is established that they are clear muhkam. The truth is not harmed by the ignorance of the ignorant or the disagreement of those who differ on it.

And others have said, "The *mutashābih* is that what has contradictory evidence."

¹⁶² Musnad al-Dārimī 146, 1/252

This is another gross mistake, because it is a claim from its proponent without any certain evidence. And also contradictory evidence is false and something nonexistent that can never exist in the sharī ah or in any of the things. Truth never contradicts. Rather, those who come with this are ignorant of the clarification of the truth and the difficulty (for them) in distinguishing between certain evidence and what is not certain evidence. Ignorance of those who deny the truth does not affect the truth, which is firmly established without any opposition. We have clarified the various manners of decisive evidence in our books. There is no way that Allah, Exalted is He, would order us to seek evidence that is equal to falsehood. The one who attribute this to Allāh, Exalted is He, is a *mulhid* and their Lord has denied them, as He says, "As a clarification for all things" [16:89]. And as He says, "The right path has become distinct from the wrong path" [2:256]. And His saying, "He has clarified to you what is forbidden to you" [6:119]. So, it is established that the mutashābih rulings mentioned by the Prophet ## in the narration mentioned before which many people do not know are clarified by the Qur'an and the Sunnah. They are known to those whom Allah has guided to understand, among the scholars whom Allāh, Exalted is He, has ordered us to ask, as He says, "So ask ahl ul-dhikr (those who know the Qur'an and Sunnah) if you do not know" [16:43].

And some people have said that the saying of Allāh in the verse, "And those who are firmly grounded in knowledge," [3:7] is conjoined (*ma'ṭūf*) to Allāh, Exalted is He. Meaning that the verse means, "And no one knows its meaning except Allāh and those firm in knowledge" [3:7].

This is a gross mistake. It is instead an independent clause ($ibtid\bar{a}'$), and its predicate (khabar) is in the verse, "And they say, 'we believe in it" [3:7] and the $w\bar{a}w$ (and) is used to connect one independent clause with another dependent clause ('atf of a jumlah on a jumlah).

The certain evidence for this is that Allāh has prohibited following the unknown (*mutashābih*) and has informed that those who follow it and seek its meaning are those with deviated hearts seeking discord. The Prophet warned (prohibited) against those who follow it. There is no way to understand the meaning of something without following it and seeking its meaning. As following it is prohibited, then the way to understand it is blocked. And if the way is blocked, then there is no way to understand it at

all. So, it is established that the firmly rooted in knowledge (rāsikhūn) will never know it, no one will.

And also, it is obligatory upon the 'ulam \bar{a} ' to clarify what they know to all the people. Allah says, "To make it clear to the people and not conceal it" [3:187], and His saying, "Indeed, those who conceal what We sent down of clear proofs and guidance after We made it clear for the people in the Scripture - those are cursed by Allāh and cursed by those who curse" [2:159].

If the firmly rooted in knowledge knew it, then it would have been obligatory upon them to clarify it to the people. If they did not clarify it, they would be cursed. If they had clarified it, the people would have known it, and if the people had known it, it would have been a clear verse (muhkam), not ambiguous (mutashābih). And the firmly rooted in knowledge and others would have been equal in understanding it. This is contrary to what Allāh has said, so the claim of those who think that the firmly rooted in knowledge know it is invalidated.

As for the narration of the Prophet where he reproached those who are ignorant of the *mutashābih* matters, if he comes near them, that is only, according to the text of the narration, out of fear of falling into clear prohibited acts. So, it is clear that those ambiguous matters are itself not prohibited to those who are ignorant of them. They are not prohibited to them if the details of their prohibition have not reached them. However, distancing (wara') dictates that they are urged (recommended) to avoid them out of fear of falling into clear prohibited acts. The meaning of this exact narration will be clarified in the chapter of *ihtivāt*, but what is sufficient to know is that this narration indicates that it is something known by a few people, while the mutashābihāt are that which is known to anyone. The mutashābihāt in the Qur'an are different from those in the rulings.

The correctness of our position is clarified in this chapter by the narration of 'A' isha, she said, "The Messenger of Allāh recited the verse, 'He it is Who has sent down to you the Book; in it are verses that are clear—they are the foundation of the Book—and others that are others unknown (mutashābihāt). But those in whose hearts is deviation follow that which is not clear of it, seeking discord and seeking its meaning (ta'wīl). And no one knows its meanings except Allah. And those who are firmly grounded in knowledge say, 'We believe in it; all is from our Lord.' But none will take heed except people of understanding' [Qur'ān 3:7] The Messenger of Allāh



said, 'When you see those who follow that which is not clear of it, they are those whom Allāh has named, so beware of them.'".

The Prophet warned against those who follow what is *mutashābih* in the Qur'ān, and we know that following all of its rulings is obligatory, so it is clear that the *mutashābih* are not what we were ordered to reflect on as we mentioned.

Some people have made *ta'wīl* the verse of Allāh, "But no one knows its *ta'wīl* except Allāh" [3:7], that this was revealed concerning a group of *munāfiqīn* who objected to the revelation of the Qur'ān, saying that perhaps tomorrow a verse might be revealed that abrogates it. So they understand the meaning of "Its *ta'wīl*" in the verse as referring to its final outcome, meaning that no one knows what will be abrogated from the Qur'ān except Allāh, the Exalted.

The answer: This is false because it is a claim without certain decisive evidence, and anything that is like this is certainly false, as Allāh says, "Produce your certain evidence, if you are truthful" [2:111]. Making *takhṣīṣ* of what the words of Allāh necessitate without evidence from texts, is attributing falsehoods to Him, we seek refuge in Allāh from this, it is a baseless *takhṣīṣ* of the verse without evidence. We have invalidated the *takhṣīṣ* of the apparent without certain evidence earlier in our book. Because we know now which verses in the Qurʿān have been abrogated and which have not been abrogated at all.

Some people have also said that the meaning of the verse, "But no one knows its ta' $w\bar{\imath}l$ except All $\bar{a}h$ " [3:7] is that no one knows the reason for the revelation of the verses except All $\bar{a}h$.

This is also false, like the one before, because it is a claim without any certain decisive evidence, attributing to Allāh what He did not say, and conveying about Him what He did not convey about Himself. And also, if it were as they said, it would mean that the reasons for the revelation of the verses are known only to Allāh, the Exalted. We have refuted the claim that Allāh does things for a reason in the chapter regarding 'ilal in this book, and Allāh, the Exalted, grants success.

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¹⁶³ Şaḥīḥ al-Bukhārī 4547



Chapter Twenty-One: *Ijmā*, regarding What Matters *Ijmā*, Occurs On, and How *Ijmā* is Transmitted

We and all of ahl ul-islām, Jinn and human from any generation concur with a valid certain ijmā' that Allāh revealed the Qur'ān to Muhammad, Rasūlullah # and every single thing Rasūlullah # says is the truth that is obligatory to believe in it, necessary on every human and Jinn. And that is the religion of Islām. Besides this there appears ikhtilāf on the way that leads towards the Prophet . Know, may Allah have mercy on you, that whoever follows the texts of the Qur'an and authentic Musnad Riwayah from Rasūlullah #, has followed ijmā with certainty. Whoever turns away from anything from that has not followed ijmā'. There is also ijmā' of all of Ahl ul-Islām, Jinn and human from any generation and any place that what is narrated from the Prophet , the Sunnah, it is obligatory to follow it. They also all concur on the obligation of following the jamā'ah. And know, may Allāh have mercy on you that whoever follows what an authentic Musnad Riwāyah from thiqāt to the Prophet , has indeed followed the Sunnah with certainty. Luzūm al-jamā'ah are the saḥābah and tābi 'ūn with perfection and the a'immah that came after them. Whoever follows anything/anyone other than the Prophet # has not followed the Sunnah and also not the jamā'ah, such a person is a liar if he claims the Sunnah and the jamā'ah on what he follows. We the assembly followers of hadīth, dependent on it are ahl ulsunnah wal-jamā'ah in reality with the certain necessary evidences and we are *ahl ul-ijmā* 'likewise, and all praise is for Allāh, the Lord of the worlds.

Then we have concurred and most of those that oppose us that the $Ijm\bar{a}$ of the 'ulam\bar{a}' of ahl ul-Isl\bar{a}m is a \hat{hujjah}, it is a decisive truth.

Then we differed.

A group of people said, " $Ijm\bar{a}$ ' is something other than the Qur'ān and something other than the Sunnah from Prophet $\stackrel{\text{\tiny{def}}}{=}$. It is something to



which the scholars of the Muslims agree on a ruling that has no texts (from Qur'ān and the Sunnah) but it is with a ra' $\bar{\imath}$ from them or a $qiy\bar{a}s$ from them on the $mans\bar{u}s$ (similar to it).

We say: This is false, it is not possible at all for there to exist an *Ijmā* of all 'ulamā' of the Ummah on other than texts (of the Qur'ān and Sunnah), for which there is nothing from the Qur'ān and Sunnah. Similarly there does not exist any *ikhtilāf* from the 'ulamā' of the muslimīn ever except on a ruling in which there is texts of the Qur'ān and the Sunnah from the Prophet that clarify in which saying of those that differ is the truth, there is no other way than this. That then those who were upon the truth and are rewarded twice. One reward for his *Ijtihād* by which he sought the truth and the second reward on his correct view and for him following it. And for those who opposed what was correct without willing allowing opposition to it, but with the intention to seek the truth but were wrong in conclusion are rewarded once only for seeking the truth, there is no sin on him as he did not oppose on purpose. It has then become certain that there must be no *ikhtilāf* of the Muslims on (even) some text. Allāh makes *ijmā* happen just as he can make *ikhtilāf* between them as he wills in what they differ from the texts.

A group opposing our saying mention the verse, "O you who believe! Obey Allāh and obey the Messenger, and those of you (Muslims) who are in authority And if you dispute over anything, refer it to Allāh and the Messenger, if you should believe in Allāh and the Last Day. That is the best [way] and best in result" [4:59].

They say, "Allāh has made obedience to those in authority obligatory, just as He has made obedience to the Messenger and Himself obligatory, without any difference between them. If Allāh had only made obligatory to obey those in authority in what they narrate from the Messenger, there would be no purpose in reiterating the order for obedience to those in authority, as obedience to the Messenger is already obligatory. It would suffice for Allāh for that to only mention obedience to Himself and the Messenger alone if, according to their perspective, obedience to the Messenger and those in authority is the same. So it is established that Allāh has only ordered obedience to those in authority in matters of what they say of ra and $qiy\bar{a}s$ where there is no explicit textual evidence from Allāh and His Messenger. And Allāh says, 'But If only they had referred it to the Messenger or to those charged with authority among them, the proper

investigators would have understood it from them (directly)' [4:83]. This is similar to the previously mentioned verse. And also Allāh said, 'But whoever opposes the Messenger after guidance has become evident to him and follows other than the way of the believers, We will turn him towards what he has turned to and roast him in Hell—and what an evil destiny!' [4:115]. They faced severe threats for opposing the path of the believers, making it an obligation to adhere to their $ijm\bar{a}$, whether it be based on ra \bar{i} or $qiy\bar{a}s$. And the Prophet said, 'A group from my Ummah will continue to remain steadfast upon the truth. Those who abandon or oppose them shall not be able to do them any harm until Allāh's order is executed (yawm al-qiyāmah). 164 So it is evident that the Ummah of the Prophet acannot unanimously agree on falsehood, as he foretold the perpetuity of those who faithfully follow Allāh's command. So their $ijm\bar{a}$ on matters of ra \bar{i} and $qiy\bar{a}s$ is the truth (for which there is no text)."

The answer: This is everything they use as evidence, there is no hujjah with them other than this at all. All of this is the truth, no Muslim denies that, and we do not oppose them on the validity of $ijm\bar{a}$. We only oppose them in two places of their claims. Firstly, their allowance for the existence of $ijm\bar{a}$ without texts (nass). Secondly, their claims of $ijm\bar{a}$ in places of falsehood where there is no certain evidence that it is an $ijm\bar{a}$, as there might still *ikhtilāf* existing, or places where we do not know any *ikhtilāf* except that $ijm\bar{a}$ on it is still not certain.

Yes, they have opposed certain *ijmā* based on what will become clear after this by the will of Allāh. As the matter is like this there is no hujjah for them in any of the *nuṣūṣ* they used at all, in that which we reject from them. There is only in the narrations about Prophet swe mentioned merely an indication that his *ummah* does not unanimously concur upon falsehood at any time, not even for a second. This implies that there will always be someone among them standing up for the truth, and this is as we say it. There is no mention in that narration that the truth they gather on is other than the Qur'ān and Sunnah and this narration only indicates with its wordings the presence of ikhtilāf, and that during the ikhtilāf, there must be someone speaking the truth.

As for the verse where Allah says, "But whoever opposes the Messenger after guidance has become evident to him and follows other than

¹⁶⁴ Sahīh Al-Bukhārī 71, 3116, 3641, 7312 | Sahīh Muslim 1920

the way of the believers (*sabīl ul-mu'minīn*, We will turn him towards what he has turned to and roast him in Hell—and what an evil destiny!" [4:115].

This is a hujjah against them, and all praise is for Allāh, the Lord of the worlds, because Allāh did not threaten only those who deviate from $sab\bar{\imath}l$ ul-mu' $min\bar{\imath}n$, except with opposition to the Prophet after guidance has become evident to him. This is texts of our saying, and all praise is for Allāh. Know that the $sab\bar{\imath}l$ ul-mu' $min\bar{\imath}n$ is none other than obedience to the Qur'ān and the authentic Sunan of the Prophet . As for the emergence ($ihd\bar{\imath}ath$) of any ruling. For which no nass has come it is not the way of the believers; rather, it belongs to the way of kufr. Allāh said. "The only saying of the faithful believers, when they are called to Allāh to judge between them, is that they say: 'We hear and we obey'. For those are the successful (who will live forever in Paradise)" [24:51]. This is the way of the believers in that verse, for which there is no other way, so this verse returned as a hujjah against them.

As for the saying of Allāh, "Obey Allāh and obey the Messenger, and those of you (Muslims) who are in authority (*ulū ul-'amr*)" [4:59]. And the saying of Allāh, "But If only they had referred it to the Messenger or to those in authority among them (*ulū al-'amr*)" [4:83].

This is the place there is a difference of opinion regarding who the $ul\bar{u}$ al-'amr (those in authority) are. According to Abū Hurairah, they the rulers $(umar\bar{a}')^{165}$. It is narrated about Mujāhid, Al-Ḥasan, 'Ikrimah, and 'Aṭā', that they are the jurists $(fuqah\bar{a}')$.

As there is no clarification from the Qur'ān and Sunnah that they are all ' $ulam\bar{a}$ ' (excluding the $umar\bar{a}$ ') it is obligatory to take the two verses from their apparent, both meanings, $takh\bar{s}\bar{s}$ of them is not allowed with mere false claims without certain evidence, because that is a fabricated saying against Allāh which He has not said, and we are certain that if Allāh would have intended only some $ul\bar{u}$ ul-'amr, excluding some from the remaining, that he would have clarified it to us and would not have left us in doubt. So what we said becomes necessary; understanding the two verses from their apparent in the manner we clarified before. So we say: Verily the $ul\bar{u}$ ul-amr among us are the ' $ulam\bar{a}$ ' and the ' $ulam\bar{a}$ ', because both are $ul\bar{u}$ ul-'amr from us.

 $^{^{165}}$ Sunan Sa'īd Ibn Manṣūr 652, 4/1287 | Al-Muṣannaf Ibn Abī Shaybah 32531, 6/418

As this is the truth it is from the falsehood that a person says, "Verily Allāh ordered us to accept obedience of the 'ulamā' and the 'umarā' in that what Allah did not order and also not his Messenger #," so it is established that obedience to the 'ulama' and 'umara' is only obligatory on us in what we are ordered by Allāh and His Messenger and only.

And as for what their saying, "If Allāh had intended the meaning you propose, He would have sufficed by mentioning obedience to the Prophet # only, as that would be equivalent to mentioning obedience to *ulu ul-'amr*," is false.

It is said to them: If you say that Allāh mentioning obedience to $ul\bar{u}$ *ul-'amr* applies to matters of ra \bar{i} and $qiy\bar{a}s$, and not to what they convey to us from the Prophet , as Allah's order of obedience to the Messenger makes it unnecessary for him to repeat the same order. You are implied to say, "The order of Allah to obey the Messenger # after His order to obey himself is an evidence that Allah only ordered us to obey the Messenger of Allāh in matters where he spoke from his own self, not from what he has come to us from His Lord, as it is sufficient that Allah already mentioned obedience for himself and there is no need for Him to repeat it."

If they refuse this implication, their contradiction has become evident and their ruling with falsehood, without certain evidence and if they accept the implication they have come with severe oppositions to the Qur'an and the Messenger $\stackrel{\text{def}}{=}$ and certain $ijm\bar{a}$. As you have permitted that the Prophet $\stackrel{\text{def}}{=}$ can come with rulings which is not revealed by Allāh at all.

Allāh has declared this false when he ordered the Prophet sto say, "I only follow what is revealed to me" [6:50].

And as Allāh says, "And he does not speak of desire, it is only a revelation revealed" [53:3-4].

Their approaches in this matter are all invalid. Allah ordered Rasūlullah said: "Say (O Prophet): 'I don't tell you that with me are the treasures of Allah, nor (that) I know the Unseen; nor I tell you that I am an angel. I follow nothing except what is revealed to me'. Say: 'Are the blind and the one who sees equal? Will you not then take thought?"" [6:50].

And Allāh says: "When you do not bring them a sign, they say: 'Why do you not invent one?' Say: 'I follow only what is revealed to me by my



Lord. This Book is nothing but evidence from your Lord and a guide and mercy to true believers" [7:203].

And Allāh says: "And follow what is revealed to you, and be patient until Allāh will judge. And He is the best of judges" [10:109].

And Allāh says: "And follow that which is revealed to you from your Lord. Indeed Allāh is All-Aware of what you do" [33:2].

And Allāh says: "Say [O prophet]: 'I am not different from the other messengers, and I do not know what will be done with me or with you. I follow nothing except what is revealed to me, and I am only a clear warner" [46:9].

And Allāh says: "I have chosen you (for prophet-hood), So listen to that which will be revealed (to you)" [20:13].

And All $\bar{a}h$ says: "I am obliged to say nothing concerning All $\bar{a}h$ except the truth". [7:105].

And Allāh says: "And what is there, after truth, but error?" [10:32].

And Allāh says: "I have not said to them anything except what You have ordered me to" [5:117].

And Allāh says: "They said: 'Do we have any say in the matter?' Say: 'Indeed, the matter belongs completely to Allāh'" [3:154].

Allāh affirms in regard to the Prophet $\stackrel{\text{\tiny def}}{=}$ that he speaks only from the revelation $(wah\bar{\imath})$ sent to him and follows nothing except what Allāh reveals to him only. So whoever denies his Lord, let him see where his final abode will be. And as you allow the possibility of the people all gathering on rulings which they innovate $(ihd\bar{a}th)$, for which there is no revelation from Allāh and His Messenger $\stackrel{\text{\tiny def}}{=}$ and also not clarified by His Messenger. Allāh declares the one speaking of such a liar when he said, "This day I have completed for you your religion" [5:3]. The religion has been completed, whatever is completed, nothing can be added to it nor can anything decrease from it.

As for Allāh repeating the order to obey His Messenger $\stackrel{\text{def}}{=}$ after his order to obey himself, the most Exalted and his repetition to obey $ul\bar{u}$ ul-'amr after his order to obey the Messenger. And all of it means nothing other than obedience to the order of Allāh and His Messenger only, not that for which no $wah\bar{t}$ has come for. Verses being repeated exist as we clarified before

A benefit of this specific repetition (not the rationale ('illah) of it) is an additional clarification; otherwise, without it that order would be misunderstood by some people. If Allāh had only mentioned obedience to

Himself, some juhhāl would assume that nothing is obligatory except what Allāh has said in the Qur'ān and that no obedience to the Messenger of Allāh is obligatory from that which he has come to us with, from what has no naṣṣ in the Qur'ān. So since Allāh ordered his obedience and obedience to His Messenger # the clarification appears, and it becomes not possible to prevent obedience to the Messenger of Allāh # in what he orders us except an mu'ānid against him. And if Allāh, the Exalted, had not ordered us to obey ulū ul-'amr, it might have been possible for a jāhil to be deluded and say, "We are not obliged to obey the Messenger of Allāh except in what we heard from him face to face."

So since Allāh ordered us to obey *ulū ul-'amr* among us, clarification appeared in the obligation of obedience to what the 'ulam \bar{a} ' convey to us about the Prophet sonly. So them having any relation to the two verses becomes invalid, and all praise if for Allāh.

If they say, "There remains then no meaning in the verse where Allāh says, 'Obey Allāh and obey the Messenger and those in authority among you. And if you dispute over anything, refer it to Allāh and the Messenger' [4:59]. Because what is conveyed to us from Allah and His Messenger #, it is obligatory upon us to accept and adhere to it, regardless of whether there is agreement or disagreement among scholars. Then what meaning is there to the difference between the order of Allāh to obey ulū ul-'amr, then Him ordering us to return the difference to Allah and to his Messenger?"

We say: There is not in the saying of Allāh, "And if you dispute over anything, refer it to Allah and the Messenger" [4:59] any indication of any contradiction in the order of Allah to obey ulū ul-'amr. Instead in all of that, there is nothing in it except obedience to the Qur'an and the Sunan that reaches us only. But in the saying of Allāh, "And if you dispute over anything, refer it to Allah and the Messenger" [4:59] there is an additional meaning that is not in the previous verse, that is the prohibition of making taglīd of anyone and following them, and there is in it the order to restrict everything to the Qur'ān and the Sunnah only without any addition.

And also everyone from the *muslimīn* concur that the Prophet ## had ordered us to pray towards bayt al-magdis for a certain time then he ordered us to abandon that qiblah and to pray towards Makkah, so that became obligatory. And that if the Prophet would prohibit us from praying the five daily prayers and prohibit us from fasting the month of Ramadan, then it would verily be prohibited for us to pray that and to fast that, and in this manner for every single other ruling. Is it then like this, that obeying such orders become obligatory according to you if everyone on earth orders us this after him **?

If they say, "Yes," they apostate.

If they say, "No," they have made a difference between obedience to Allāh and to *ulū ul-'amr*.

If they say, "That is impossible, it is not possible for all mankind to gather on that, because that is *kufr* and misguidance."

We say: You have spoken the truth, and likewise, it is impossible and not allowed that all mankind can concur on the emergence of a ruling that Allāh did not order, nor his Messenger \cong by a $ra'\bar{\iota}$, or $qiy\bar{a}s$, without any difference. So their connection with any of the mentioned $nus\bar{u}s$ is invalid, by many ways, and all praise if for Allāh.

They say: "If $ijm\bar{a}$ would be nothing but $nu\bar{y}\bar{u}\bar{y}$ and $tawq\bar{\imath}f$, then it would be something that is preserved. Allāh says, 'Verily, We, it is We Who have sent down the Dhikr (Qur'ān and Sunan) and surely, We will guard it' [15:9] since we know that that $na\bar{y}\bar{y}$ (about an $ijm\bar{a}$) is not found, we know that the $ijm\bar{a}$ is not on the $nu\bar{y}\bar{u}\bar{y}$."

The first part of this saying is correct and the last part is a lie. And we say: There is no $ijm\bar{a}$ except on nass. And that nass is either the words of the Prophet , so it is then $manq\bar{u}l$ (transmitted), there is no other way for it other than that it is protected and present, or an action of the Prophet , which is also transmitted, or his approval/acknowledgment, when he is aware of a situation and acknowledges and does not reject it, that is also a situation that is transmitted which is guarded. Whoever claims an $ijm\bar{a}$ in manners other than these, he is burdened to authenticate his mere claim, that it is an $ijm\bar{a}$, and there is no way for any certain decisive evidence for that ever, he has nothing other than mere claims. And anything that is a mere claim without certain decisive evidence is falsehood.

If he seeks refuge by saying, "As long as no *ikhtilāf* is known, it is an *ijmā*."

We say to him: This is a plot of lies, mere claims, and a tremendous lie. The complete answer to this issue specifically be in the next chapter by the will of Allāh, the Most Exalted, exclusively towards those that said, "As long as no difference of opinion is known, it is an $ijm\bar{a}$ "." And there is no

power and no strength except through Allah, the Most High, the Most Great. Then how, when in it is sufficient to know that their saying is a mere claim without any certain decisive evidence.

As everything they used to object has been invalidated, then let us, by the help of Allah, the exalted bring the certain evidences for the validity of our saying.

Allāh says, "Follow, [O mankind], what has been revealed to you from your Lord and do not follow other than Him any allies" [7:3]. So Allāh has ordered us to follow what he revealed and prohibited us from following anyone other than that with certainty. So with this, it has become false for any saying of anyone to become valid without any nass for it. And with this it becomes invalid for an $ijm\bar{a}$ to occur on other than $nus\bar{u}s$, because other than *nass* is falsehood and $ijm\bar{a}$ is the truth and the truth does not go in accordance with falsehood.

And we have mentioned the saying of Allāh, "This day I have completed for you your religion" [5:3] so it is established that there will not after the passing of the Prophet semerge anything from the religion, and this is false to concur on anything attributed to the religion for which there has come nothing for in the Qur'an nor the Sunnah. So it is established by the necessity of the 'aql that it is not possible for anyone to know what Allāh has made taklīf of on his slaves except with a saying from Allāh, the Exalted and the one that speaks about Allah that he has ordered so-and-so and prohibited so-and-so is a liar except with wahī. It is also established by the necessity of the 'agl that whoever enters in the religion a ruling which he acknowledges that no wahī has come with that from Allāh or from his Messenger # , he innovates a religion not ordained by Allah while he blamed it and rejected it, He said, "Or have they partners with Allah who have instituted for them a religion which Allāh has not ordained?" [42:21].

And based on necessary reasoning that returns to 'aql and, observation, and sense perception, we ask those who permit the possibility that the 'ulama' of Islam can all entirely concur on a matter without for which there is no nass, and that this agreement would then be binding truth that cannot be opposed.

We say to him, with Allāh's guidance: Do you think it is possible for all the 'ulama' of Islam to gather in one place such that none of them opposed



it after the Companions (may Allāh be pleased with them) dispersed across various regions, or is this completely impossible?

If he says, "That is possible," he is contradicting what is evident, because the scholars of Islām have been dispersed since the time of the Companions during the era of the Messenger of Allāh until today. They never gathered again after they dispersed. Some went to Yemen in its cities, some to Oman, some to Baḥrain, some to Ṭāʿif, some to Mecca, some to Najd, and some to the mountains of Ṭayy, and likewise in the other parts of the Arabian Peninsula. The matter then further expanded after the Prophet And so they spread from Sindh and Kābul to the western parts of Andalusia and the coasts of the Berber lands, and from the coasts of Yemen to the frontiers of Armenia, and between these distant lands. The gathering of these [scholars] is impossible, absolutely not possible, due to their large numbers and the vast distances between their regions.

If he says, "Then gathering is not possible," we say: You are correct. Now, tell us how the matter stands if some of them make a statement on which there is no text. Do you claim that it is the truth, even though you do not know if the rest of them agreed on it or not, or do you withhold judgment?

If he says, "I am certain that it is the truth," we say: You have judged by the unseen and on what you do not know, and you have without doubt judged with falsehood.

If he says, "I withhold judgment until the rest agree on it," we say: It only becomes valid when another person from among them also says it, there is no other way for them except that they agree on this. Then it is said to them: But if someone disagrees with them, then according to you, it would not be the truth. If he agrees then it is said to him: How can something be the truth that was false yesterday? This is a judgment against Allāh, and not the judgment of Allāh, and this alone is sufficient clarification.

And also, certainty is established that people differ greatly in their aspirations, choices, opinions, and their natures, which drive them to choose what they choose and to reject other than that, and they vary greatly in this, to an extreme degree. Among them are those with soft hearts who incline toward gentleness with people, and among them are those with hard hearts who incline toward severity with people. Among them are those strong in work, determined, and patient, and those weak in strength who incline toward leniency. Among them are those who lean toward luxurious living and

comfort, and those who lean toward austerity and harshness. Among them are those who are moderate in all of this, inclined to the middle way. Among them are those who are quick to anger and inclined to strong disapproval, and among them are those who are forbearing and inclined to tolerance. It is impossible for all of these to concur on obliging a ruling based on their ra \bar{i} at all.

For their differences in their claims and madhāhib in what we mentioned is due to their varied natures. Those with different natures are only gathered by what they share in terms of sensory perception and the knowledge they derive from the sources of knowledges/'aql only. The rulings of sharī'ah are not among these two categories, so it is invalid to have $ijm\bar{a}$ on other than tawqīf. This is a certain, decisive and necessary evidence.

As for $ijm\bar{a}$ on $qiy\bar{a}s$, it is an instant false claim because they have never had an $ijm\bar{a}$ on the validity of $qiy\bar{a}s$, then how can they have an $ijm\bar{a}$ on what they have no $ijm\bar{a}$ on?

Some of those that oppose have objected, they said, "The people have differed on accepting khabar ul-wāhid, and they have an ijmā' on some rulings that come from khabar ul-wāḥid."

This is a weak, false, corrupt claim because the Muslims have never differed in the obligation of obedience to the Prophet . They only differed in the way that leads to the Prophet . And those that do not believe in kahabar ul-wāḥid. Then they have an ijmā' on a ruling that has come with akhbār al-āḥād. Then they say, "We only use it because it is nagl ul-kāffah, not because it is a khabar.

So if you say, "Verily there is *qiyās* that goes in accordance with the naṣṣ," we say to you: That which is followed then is only the naṣṣ, we do not care whether a qiyās goes in accordance with it or opposes it, we never follow qiyās at all. Whether it goes according the texts or not. Similarly it is not allowed to have *ijmā* on the saying of a human other than the Prophet ...

Because there is no one after him except that groups have opposed him from the Muslims in many of his sayings. And also if it is anyone after him then it is possible for them to be correct or wrong, following mistake from the one that is mistaken is false. As for the correctness of the one that is correct in the religion, it is only following the nass then only the nass is followed, not the saying of the one that followed the nass. Only following the



naṣṣ is obligatory. Whether he went according to it, or the opposing one opposed it.

And also, it is said to the one that allows $ijm\bar{a}$ on other than nass of the Qur'ān or the Sunnah from the Messenger of $All\bar{a}h$: Tell us on what did you allow $ijm\bar{a}$ after the passing of the Prophet on other than any nass. It does not cease to be of four possibilities with no fifth. It is either an $ijm\bar{a}$ on making a prohibition $(tahr\bar{i}m)$ of a thing the Prophet passed away and had not prohibited it, or it is an $ijm\bar{a}$ on making permissible $(tahl\bar{i}l)$ of a thing for which the Prophet passed away and had prohibited it. Or it is making an obligation $(\bar{i}j\bar{a}b)$ of something the Messenger of $All\bar{a}h$ passed away and had not obliged. Or it is abolishing $(isq\bar{a}t)$ of an obligation which the Prophet passed away for and had obliged it.

Every single one of these are mere kufr, $ihd\bar{a}th$ (innovating) of a religion and changing the religion of $isl\bar{a}m$ and there is no difference between these manners and between allowing $ijm\bar{a}$ on abolishing the five prayers or some of them, or a rak in from it or obliging prayers other than them or an additional $ruk\bar{u}$ or the abolishment of fasting $Ramad\bar{a}n$ or in obliging fasting the month of rajab or abolishing hajj to makkah or obliging the hajj to $T\bar{a}$ if or allowing consuming the swine or making a prohibition of consuming the ram, all of this is clear kufr $(sar\bar{a}h)$, nothing is hidden.

If they say, "All of these are however $nu\bar{s}u\bar{s}$, and we only allow $ijm\bar{a}$ " on what has no $na\bar{s}s$."

We say: And all of what we mentioned has no naṣṣ, they are only additional rulings to the religion of Allāh or decreasing from it. This is the attribute of what has no naṣṣ. There is no way for there to be a ruling that has no nass that departs from these two manners.

If they say, "This is not allowed," they have returned to our saying instantly and anyone that allows any of the before apostates.

This is also certain decisive evidence on the falsehood of $qiy\bar{a}s$, $ra'\bar{\imath}$, $istihs\bar{a}n$, there is no way out from it.

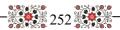
And know that their saying, "This issue has no naṣṣ," is $b\bar{a}til$, a $tadl\bar{\iota}s$ in the religion and making a path towards these grave matters, because everything $All\bar{a}h$ did not make $har\bar{a}m$ on the tongue of his Messenger # till he passed away, he has made it $hal\bar{a}l$ with his saying, "He created for you all that is on earth" [2:29]. And with his saying, "He has clarified to you what is prohibited for you" [6:119].

And everything he has not ordered us, then he did not oblige us it, it is not possible for in the 'aql to exist other than this. As for everything he ordered in the *nuṣūṣ* with an order or prohibition, then he has obliged it or prohibited it, and it is then not allowed for anyone to oppose it. So it is established that there is nothing except clear nass, so it is established that there is no ijmā' except on nass and no ikhtilāf except on nass as we mentioned and there is no qiyās that obliges on a nass except that it is an addition in the religion or a decrease in the religion without any other possibility.

Then we say to them: Tell us about $ijm\bar{a}$ in general, does it cease to be from these three manners to which there is no fourth by the necessity of the 'aql: It is either $ijm\bar{a}$ ' of the mankind on what has no nass as you claim and we have shown you the falsehood of that and that it is impossible and that it is impossible for that to exist because of the validity of the existence of the $nus\bar{u}s$ in everything from the religion. Or the $ijm\bar{a}$ of mankind is on an opposition to the *nass* for which there is no *naskh* or *takhsīs* before the passing of the Prophet , and this is mere *kufr* as we previously clarified. Or it is an $ijm\bar{a}$ of mankind on that which is mansūs, and this is our saying, a type of necessity for which there is no way out for at all.

As the matter is as we said, then following the *nass* is obligatory whether the people have an ijmā or if they have ikhtilāf, the rank of the nass does not increase in its obligation to follow it if the people gather on it, and no obligation of following the *nass* is weakened if the people differ on it, instead the truth is the truth, even if it is differed and the falsehood is falsehood even it those saying it are many. But we say: If there would not be nass from the Prophet # that his ummah does not cease upon the truth. And were it not for the authentic *nass* from the Prophet * stating that there will always be among his ummah those who uphold and speak the truth, and thereby nullifying the possibility of them having $ijm\bar{a}$ on falsehood, we would have said: Falsehood remains false even if they were to have an ijmā' upon it. However, there is no way for them to have $ijm\bar{a}$ on falsehood. There does not exist any real *ijmā* 'that was on other than the Qur'ān and Sunnah.

As the matter is like this, the. Upon us is only seeking the rulings of the Qur'an and the authentic Sunan of the Messenger of Allah , as there is nothing in the religion other than these two at all, there is no meaning for us



to seek whether they had an $ijm\bar{a}$ on that ruling of if they differed on it, based on what we mentioned before, and all praise is for Allāh.

If it is said, "You earlier validated $ijm\bar{a}$ ', now you oblige that there is no meaning to it.

We say: $Ijm\bar{a}$ exists just as $ikhtil\bar{a}f$ exists, except that we are not ordered by Allāh the knowledge of anything about that, we are only obliged to follow the Qur'ān and Sunnah and the clarification of the Prophet transmitted to us by $ul\bar{u}$ al-amr. Based on what we clarified earlier and because the rulings of the religion, all from the Qur'ān and the Sunan do not cease to be of two manners with no third to it: it is either $wah\bar{u}$ affirmed in the mushaf which is the Qur'ān or it is $wah\bar{u}$ not affirmed in the mushaf which is the clarification of the Messenger of Allāh.

Allāh said, "To clarify to the people what has been revealed to them" [16:44].

And Allāh said, "He does not speak of desire it is only a revelation revealed" [53:3-4].

Then all of that splits into three types for which there is no fourth to it: One of them is that which the ummah as transmitted generation after generation such as $\bar{\imath}m\bar{a}n$, $\bar{\imath}alaw\bar{a}t$, $\bar{\imath}iy\bar{a}m$ and so on, this is the $ijm\bar{a}$ for which there is nothing else that is $ijm\bar{a}$ there is nothing of this type that is not an ijmā '. Or it is something transmitted from the transmission of tawātur, kāffah from kāffah from among us likewise to the Messenger of Allāh, such as many of the Sunan, ikhtilāf exists on this. Such as the prayer of the prayer of the Prophet sitting with all of those present with him and when he gave khaybar to the Jews for (which the condition of them giving) half of its produce from the crops or dates, they produce it if they want. And other than these, are many. Or something transmitted by a thigah from a thigah till it reaches the Messenger of Allah , there are things from this on which there is $ijm\bar{a}$, and from this that which has *ikhtilāf*. This is the meaning of $ijm\bar{a}$, for which there is no $ijm\bar{a}$ in the religion other than it at all, whoever claims other than this has only spoken without any knowledge and what he does not understand and has taken as a religion that which he does not know the reality of. And Allāh is the source of strength and in him we seek refuge from takhlīt in the religion what cannot be comprehended.

Section: People Then Differ On The Various Types Of *Ijmā* '

Then the people differed in the various ways of $ijm\bar{a}$, there is not upon us need to mention them, as we have clarified before that there is no need for anyone to seek $ijm\bar{a}$ or an $ikhtil\bar{a}f$. The obligation on everyone which they need is to know the $ahk\bar{a}m$ of the Qur'ān and what is affirmed from the Prophet Only as we clarified. And we clarified that $ahl\ ul$ -'ilm only sought the knowledge of $ijm\bar{a}$ in order to emphasize the gravity of opposing it and to deter others from going against the view. Only. And similarly they sought the knowledge of $ikhtil\bar{a}f$ of the people to declare the one that does not care about his claims of $ijm\bar{a}$ as false, as there is $ikhtil\bar{a}f$ present. By pointing out these differences, they deter such individuals from persisting in their falsehoods only. Success is only by the grace of Allāh.

A group of people said, " $Ijm\bar{a}$ ' is only the $ijm\bar{a}$ ' of all companions only, any $ijm\bar{a}$ ' after them is not an $ijm\bar{a}$ '."

Another group said, " $Ijm\bar{a}$ " of the people of every single generation is a valid $ijm\bar{a}$ "."

Then they differed, a group among them said, "If the $ijm\bar{a}$ of every generation is established, then it is a valid $ijm\bar{a}$, it is not for anyone afterwards to oppose it."

And a group among them said, "It is instead obligatory to consider that generation, and if the entire generation becomes extinct and they did not add any opposition to what they had concurred on then it is an $ijm\bar{a}$ 'that is established, and no one is allowed to oppose it, and if anyone of them returns from what they concurred with the companions then he can have that and that does not become an $ijm\bar{a}$ '."

And a group said, "If the people of the generation differ on a mas'alah, then $ikhtil\bar{a}f$ is established and no $ijm\bar{a}$ on that mas'alah will ever occur."

Another group said, "Instead if the people of the generation differ on a mas'alah then the people of the generation after them have $ijm\bar{a}$ on some of what the previous generation said, then it is a valid $ijm\bar{a}$, and it is not allowed for anyone to oppose it."

And a group said, "If the people of the generation differ on something by ten sayings or less or more, then it is an $ikhtil\bar{a}f$ in that which they differed and also a valid $ijm\bar{a}$ on abandoning that which they did not say from the sayings, it is not allowed for anyone to abandon those says. He may choose from them in accordance with his $ijtih\bar{a}d$."

And a group said, "As long as there is no *ikhtilāf* known it is a valid $ijm\bar{a}$, it is not allowed for anyone to oppose it."

And a group said, "That is not an ijmā'."

And a group said, "If the majority concur on a saying, which only one from the ' $ulam\bar{a}$ ' opposed then the saying of that one does not matter and the sayings of the majority is a valid $ijm\bar{a}$." This is the saying of Muḥammad ibn Jarīr al-Tabarī.

A group said, "That is not ijmā'."

And a group said, "The saying of the majority or the most is $ijm\bar{a}$ ', even if they are opposed by a number lesser than them."

And a group said, "That is not an ijmā'."

And a group said, "The $ijm\bar{a}$ of everyone from the people of Madīnah is $ijm\bar{a}$," this is the saying of the Mālikiyyah."

Then they differed, ibn Bukayr al-Mālikī among them and a group with him said, "Even if it is a $qiy\bar{a}s$ or $ra\bar{t}$ from them or a transmission."

And Muḥammad ibn Ṣāliḥ al-Abharī al-Māliki from them and a group with him said, "Only that which is a transmission from them."

And a group said, " $Ijm\bar{a}$ ' is the $ijm\bar{a}$ ' the people of Kūfah," this is the saying of some of the Ḥanafiyyah."

And a group said, "If there comes a saying from one companion or more and there is not known an opposition to them then it is an $ijm\bar{a}$, even if there are those that oppose the companions after the generation of the companions." This is the saying of some of the Shāfi'īyyah, the majority of the Ḥanafiyyah and Mālikiyyah.

Some of the Shāfi'īyyah said, "It only becomes $ijm\bar{a}$ ' if that saying spreads among them and there is then not known an opposition from them.

As for when it does not spread then it is not an $ijm\bar{a}$, opposition to it is possible."

Then there are statements here that fall under the category of mere delusion, if their proponents are free from the intent to manipulate/play with the religion, such as the saying of some Hanafiyyah, "No one has the right to choose after Abū Hanīfah, Zufar, Abū Yūsuf, Muhammad ibn al-Hasan, and Al-Ḥasan ibn Ziyād. And the choices of al-Shāfi 'ī, Aḥmad ibn Ḥanbal, Isḥāq ibn Rahuyah, Abū Thawr, Dāwūd ibn 'Alī, and the remaining of the scholars are deviations that are against the $ijm\bar{a}$ "."

This is similar to the statement of Bakr ibn al-'Ala' al-Qushayrī al-Mālikī, "After the year 200, the matter has been settled and no one has the right to choose."

Also, like the statement of a person mentioned by Abū Thawr in a letter, against whom he responded, the saying of that person was, "No one has the right to go against the choices of al-Awzā'ī, Sufyān al-Thawrī, 'Abdullah ibn al-Mubārak, and Wakī' ibn al-Jarrāh."

The types of foolishness are larger than the types of dates, and it is sufficient of an invalidation that any statement about religion for which nothing has come from the Qur'an or an affirmed Sunnah from the Messenger of Allāh sis false.

And Allāh said, "Whoever transgresses the limits of Allāh, they are from the oppressor"s [2:221].

And the saying of Allāh, "Say: Bring you certain evidence if you are truthful" [2:111].

So it is established that there is no certain evidence in the religion except what Allāh made a limit and the limits of Allāh are nothing except his words and the clarification of the Messenger of Allāh only and that the one that does not come in his saying in the religion with certain evidence from the Qur'an and a ruling connected affirmed to the Prophet #, then they are not from the truthful, He is a lying, deceitful, misguided, and misleading person and Allāh is the source of strength.

However, it is a must, with the help of Allāh Almighty, to clarify, the fallacies of these corrupt sayings, whose adherents have made grave errors and whose followers have increased, in the hope that Allah Almighty might guide someone through His guidance, which would be better for us than red



camels¹⁶⁶ as the Messenger of Allāh said. And our success is only through Allāh, and He is sufficient for us and the best disposer of affairs.

Know that all these groups concur that the $ijm\bar{a}$ of the Companions, may Allāh be pleased with them, is a valid $ijm\bar{a}$, and they affirm that everything that was widespread among them, may Allāh be pleased with them, and without a disapproval known from them, is a valid $ijm\bar{a}$. So know that the $ijm\bar{a}$ of these groups on what we have mentioned rules in our favor over them, and it necessitates that we are the followers of the $ijm\bar{a}$, and that all those who oppose us are all against $ijm\bar{a}$ by their own acknowledgment and all praise is for Allāh, as we will clarify in the next chapter.

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Section: What Is The *Ijmā* 'Of The Companions Or The Generations After Them, And What Is *Ijmā* 'And How Is It Known That Something Is *ijmā* '

Abū Sulaymān and many of his companions said, "There is no $ijm\bar{a}$ ' except the $ijm\bar{a}$ ' of the companions." He used as evidence by saying, "The companions witnessed $tawq\bar{\imath}f$ from the Prophet and it is established that there is no $ijm\bar{a}$ ' except from $tawq\bar{\imath}f$. And also they were all of the $mu'min\bar{\imath}n$, there was no mu'min from the people other than them. Whoever is of this attribute then their $ijm\bar{a}$ ' is the $ijm\bar{a}$ ' of the $mu'min\bar{\imath}n$, and it is the certain $ijm\bar{a}$ '. As for any generation after them then they were only some of the $mu'min\bar{\imath}n$ not all of them, and there is no $ijm\bar{a}$ ' on only some of the $mu'min\bar{\imath}n$. $Ijm\bar{a}$ ' is only $ijm\bar{a}$ ' of all of them, and also they were a limited amount which is possible for them to encompass and to know their sayings and those after them are not like that."

As for his saying that they witnessed $tawq\bar{\imath}f$ from the Prophet $\stackrel{\text{def}}{=}$, then it is just as he said, and this is only a hujjah in that there is no $ijm\bar{a}$ except from $tawq\bar{\imath}f$ and there is no doubt that the $ijm\bar{a}$ of the companions is a valid $ijm\bar{a}$ if there is certainty that it is acknowledged by the Prophet $\stackrel{\text{def}}{=}$, the topic is only about the generations after them.

Those that opposed him objected by saying, "The people of the generations after them can concur on a $dal\bar{\imath}l$ from texts of the Qur'ān and Sunnah, this is also part of $tawq\bar{\imath}f$."

As for his saying, "The companions were all of the *mu'minīn* and those after him only some of the *mu'minīn*," then this is a valid saying, its validity is known by witness and apparent. Except that those that oppose this have opposed a point in it and that is that they say, "If it would be like this then since Khadījah or some other early companions died, then the remaining would only be some of the *mu'minīn*, not all of them, so you must then, as



you are implied, say: $ijm\bar{a}$ is only the $ijm\bar{a}$ of those that became Muslim among them at Makkah before any of them passed away."

Some of our companions objected to this by saying, "Yes, this is the truth, there has not come any *naṣṣ* from the Qurʿān nor the Sunnah that names the remaining ones apart from those after those passed away, an *ijmā* '."

Some of our companions said, "No, but we say: Those that passed away from them, may Allāh be pleased with them, we are certain that if they would be alive, that they would submit to the revealed <code>waḥī</code> from the Qurʿān or clarification from the Messenger of Allāh because he did not die except that he believes (is a <code>mu'min</code>) in everything revealed to the Messenger of Allāh after him without doubt, and not like those after him, because there are those after them that do not believe in <code>khabar ul-wāḥid</code> by a <code>thiqah</code> from the Prophet so we are not certain that they have obedience to what the Prophet ruled, in opposition (while) to the companions which died who, so it enters <code>ijmā</code> with this generality."

Those opposing objected and said, "Even if the matter would be like that. It is still possible for it to oppose the $wah\bar{\imath}$ by ta ' $w\bar{\imath}l$ or with $ijtih\bar{a}d$, just as 'Umar, Khālid, Abū al-Sanābil and others did, if this is not considered opposition because it is a mistake from the companion, then nothing is considered opposition of anyone from $ahl\ ul$ - $isl\bar{a}m$ if they oppose the text as he opposed it with ta ' $w\bar{\imath}l$, with his wrong $ijtih\bar{a}d$. Because every Muslim is a Muslim in that which the Prophet said and ordered, even if they oppose it with ta ' $w\bar{\imath}l$, wrong $ijtih\bar{a}d$, seeking the good in his estimation, so with this saying every ruling becomes an $ijm\bar{a}$ ' and $ikhtil\bar{a}f$ becomes false.

We say: This objection is not correct and that which Abū Sulaymān obliged does not prevent that those after the companions are only some of the *mu'minīn* not all of them, because every ruling that is revealed by Allāh after the passing of whoever passed from the companions, then they never had *taklīf* of not to oppose that ruling because nothing had reached them, a ruling becomes only necessary after it reaches. Allāh said, "That I may warn you thereby and whomever it reaches" [6:19].

Them concurring or disagreeing would only be considered if it had reached them, and not the same are those after them if the ruling reached them, whoever agrees has joined the $ijm\bar{a}$ with them and whoever opposes with $ijtih\bar{a}d$ then $ikhtil\bar{a}f$ occurs in that ruling.

As for his saying, "The amount of companions were limited so it was possible for them to gather and possible to record their sayings, this is not likewise for those after them, this was only if all of them were present with the Prophet before their separation from the lands. As for after their separation then the situation is difficult to limit their sayings just as is the case for those after them, similarly without difference. This is a matter known by witness and necessity.

As for the one that says, "The $ijm\bar{a}$ ', of the people of all generations is $ijm\bar{a}$," this is a false saying as we mentioned that they were some of the Muslims not all of them, but it is the truth based on what we mentioned before from the saying of the Prophet #, "There will not cease to be group of my ummah upon the truth till the day of judgment comes." And we said before that no real *ijmā* 'exists on other than Qur'ān and Sunnah.

And we by the will of Allāh will clarify the howness of $ijm\bar{a}$ 'that is acknowledgment from the Prophet #, from the Sunnah, a clarification apparent which is witnessed by necessity and senses and Allāh is the source of strength, we say: $Ijm\bar{a}$ which is the certain $ijm\bar{a}$ and for which there is no other correct ijmā and no correct tafsīr for it and no claim. But it splits into two types: The first type is everything which no one from ahl ul-islām have doubt in that if they do not say it then they are not Muslim, like the *shahādah*, "Lā Ilāha Illa Allāh Wa Anna Muhammadan Rasūlullah," and like the obligation of the five *şalawāt* and fasting on the month of Ramaḍān and the prohibition of maitah, blood and the swine. And acknowledging the Qur'an completely, these are the matters whomever it reaches, and they do not acknowledge it then they are not Muslim, then as it is the case that everyone that says it is Muslim then it is established that it is $ijm\bar{a}$ from everyone of ahl ul-islām.

The second type is something witnessed by all companions from an action of the Prophet sor certainty that everyone absent also knows it, just as his action at Khaybar when he gave the land to the Jews in exchange for half of the produce, whether crops or dates, with the Muslims having the right to expel them whenever they wished. In such a case, there is no doubt in anyone's mind that no Muslim in Madīnah except that they witnessed the matter or it reached them including women and weak children and no Muslim remained in makkah or distant lands without knowing it and rejoicing in it. However, this category of ijmā was later opposed by some after the era of



the Companions, may Allāh be pleased with them. Mistake from them, intended good, but had a mistake in their *ijtihād*.

So, these are the two categories of $ijm\bar{a}$, and it is impossible for there to be an $ijm\bar{a}$ outside of these two categories, nor can $ijm\bar{a}$ be known without an authentic transmission to these two. It is not possible for anyone to deny them, and anything beyond them is a false claim. And by Allāh, the Most High, whoever claims to know an $ijm\bar{a}$ outside of these two categories has lied against all the people of Islām. We seek refuge in Allāh, the Almighty, from such a thing.

Anas Ibn Mālik said, "I heard 'Umar ibn al-Khaṭṭāb the next morning after the Muslims pledged allegiance to Abū Bakr in the mosque of the Messenger of Allāh Abū Bakr had ascended the pulpit, and then 'Umar ascended as well, and 'Umar testified before Abū Bakr. He said, 'As for what follows, I said to you yesterday a statement, and it was not as I said. By Allāh, I did not find the statement that I said to you in a book revealed by Allāh Almighty, nor in a covenant that the Messenger of Allāh antitude entrusted to me. But I had hoped that the Messenger of Allāh would live until he would guide us. But Allāh chose for His Messenger what is with Him over what is with you. And this is the book by which Allāh guided His Messenger, so follow it, and you will be guided by what the Messenger of Allāh , was guided."

So this is 'Umar, may Allāh be pleased with him, on the pulpit in the presence of all the Companions, may Allāh be pleased with them, declaring and admitting that he spoke words that he did not find in the Qur'ān or in the Sunnah, and that it was not as he said. And none of the Companions denied this. He commanded to the Qur'ān, and none of them opposed him in that. So, it is established that our statement not to follow what is narrated from any of the Companions unless it is found in the Qur'ān or Sunnah that the $ijm\bar{a}$ ' of the Companions, and that the obligation to follow the texts is the true $ijm\bar{a}$ '. This is our statement, and praise be to Allāh, Lord of the worlds, and whoever opposes this has opposed the correct valid $ijm\bar{a}$ '.

And similarly whoever makes *taqlīd* of someone in all of his sayings and his intentions a *ḥujjah* and with all of the sayings of an exact human, just as the Ḥanafiyyah, Shāfi 'iyyah and Mālikiyyah do, they are in an opposition to every single one from the generation of the companions and every single

¹⁶⁷ Şaḥīḥ Al-Bukhārī 7219

one of the generation of the tabi'īn and every single one of the generation of the *tābi'i al-tābi'īn* from the first to the last one of them. So we, and all praise is for Allāh are the followers of $ijm\bar{a}$ and they are the opposers to the certain decisive ijmā', and We ask Allāh Almighty to bring them back to guidance and to keep us steadfast upon it.



Section: Those Who Say, "It Is Not Allowed For Anyone To Oppose *Ijmā*"

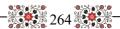
As for those who say, "It is not allowed for anyone to oppose $ijm\bar{a}$," it is a valid saying which they placed in a place of deception and they presented it in a false manner and the words of truth have been used to intend with it falsehood and that is that they falsely say that anything that has no $ijm\bar{a}$ then $ikhtil\bar{a}f$ in it is allowed and possible.

This is falsehood, instead anything that has $ijm\bar{a}$ or $ikhtil\bar{a}f$, they are the same in this chapter, it is not allowed for anyone to oppose the truth at all whether there is $ijm\bar{a}$ or if there is $ikhtil\bar{a}f$.

If it is said, "Why do you not excuse those that oppose $ijm\bar{a}$ in the same manner you excuse those that oppose in that which has $ikhtil\bar{a}f$."

We say: By my life, we do not do anything from that which they say, there is no difference according to us between the two in what you attributed to us. Instead our saying by which we worship Allāh is that there is no truth in the religion except what has come from the words of Allāh in the Qurʿān or the clarification of the Prophet *, the revealed waḥī to him and it is not allowed for anyone to oppose anything from that. Whoever is ignorant and is mistaken intending the truth which the truth was not made clear to him or did not understand it, then opposed anything by that description, then whether there is $ijm\bar{a}$ on it or $ikhtil\bar{a}f$, he is mistaken excused and rewarded once, like the one that accepts Islām and the obligation of the salāh did not reach him or the one that is mistaken about the Qur'an, for which there is no ijmā' like the $ijm\bar{a}$ on the Qur'an so he omitted a verse or changed a word or added to it what is not from it without doing it on purpose but he assumes it is like that then there is no sin on him and no harm, and in this manner for everything. Whoever opposes on purpose what is authentic about the Prophet ## and does not affirm it in his heart or with his tongue as binding, like his judgment, then he is a kāfir whether there is ijmā' on it or ikhtilāf. Allāh said, "But no, by your Lord, they will not [truly] believe until they make you, [O Muḥammad],

judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission" [4:65]. And if he opposes what is authentic from him # from that with his knowledge and submits to it with his heart and tongue then he is a mu'min, fāsiq (sinner) just as the fornicator, the consumer of *khamr* and other sinners in the same lanner, whether there is $ijm\bar{a}$ on it or ikhtilāf, these are the realities that no one is able to object and not by deceptive sayings.



Section: Those Who Stipulate The Condition Of *Inqiraḍ al-ʿAṣr* For The Validity Of An *Ijmā* '

Requiring *Ingirad al-'Asr* as a condition implies that every individual who agreed on a particular view must also uphold that agreement until their passing. From the best sayings said against this false method is: The generation of the companions reached one hundred and three years because Sumayyah Umm 'Ammār passed away in the beginning of Islām then they did not cease passing away, those whose time reached such as Abū Umamah, Khadījah, 'Uthmān ibn Maz'ūn and those killed at Badr and Uhud and ahl ulbu'ūth year after year. And whoever passed away during that till the passing of Anas the year ninety-one years after the hijrah and the generation of the tābi 'īn entered the generation of the companions because when the twelve men from the Anṣār became Muslim before the hijrah by one year and three complete months because they became Muslim in dhū ul-hijjah in the days of *hajj* and they brought with them themselves Mus ab Ibn Umayr a teacher of Qur'an for them and the religion. And they remained like that for a complete year, then from them seventy Muslims and three female Muslimāt performed *hajj*, all of which are known by name and lineage, and they were the people of the bay'ah of 'aqabah. They left in Madīnah a large and widespread number of people becoming Muslim, exceeding two hundred men and women. Then the Prophet # did hijrah in rabī' al-awwal. There is no doubt that within those fifteen months, some of them, men and women, must have passed away because their numbers were large and all of them were from the *tābi* '*īn* and they were the majority. Except those among them that witnessed the Prophet , who were the least among them. And in this manner everyone that became Muslim but did not meet the Prophet # from all over the Arabian Peninsula, such as in Yemen, Bahrain, Oman, Tā'if, Egypt, Qudā ah, the rest of Rabī ah, the mountains of Tayy, and Najashi anyone who did not meet the Prophet among them is from the tābi īn. And the tābi 'īn did not cease to pass away one after another, in ones, twos, tens,

hundreds, and thousands from a year and two months before the hijrah until the last of them died around one hundred eighty years after the hijrah, such as Khalaf ibn Khalīfah, who saw 'Amr ibn Ḥurayth, and those who were said to have seen Anas Ibn Mālik, may Allāh be pleased with him. So, who is this weak-minded person who makes it a condition that everyone in the entire generation must uphold the agreement till their passing and that it becomes only valid if the entire generation ended with that, a generation of people which is over a span of a hundred and three years, then the generation afterwards one hundred eighty years, keeping track of their breaths and their ijmā', whether they differed after that or not? How can this be imposed on people, especially when the people of those two eras overlap, with many of the people from the second generation passing away long before the end of the first generation, by a long duration of more than one hundred years? Many of them, like 'Alqamah, Masrūq, Shurayḥ, Sulaymān, Rabī'ah, and others, who were from the tābi in, issued fatwas during the generation of the Companions and died during the generation of the Companions. Likewise, the generations will continue to overlap until the Day of Resurrection.

Some have objected by mentioning the saying of the Prophet , "The best of you are those of my generation, then those who follow them, then those who follow them."168

The answer: There is a difference between the two matters, as different as light and darkness, because what distinguishes the mentioned generation is a clear superiority in virtue that the latter generations do not take part in, and it is well known that those who came later in the generation of the Companions are superior to those who came earlier in the generation of the tābi īn. This (virtue) is not the same as the permissibility of issuing fatwas, or any saying about the religion because if it were not permissible for a tābi'ī to issue a fatwa until the generation of the Companions completely ended, then it would not have been permissible for those we mentioned, who died among the tābi 'īn during the generation of the Companions, to issue fatwas. This is false.

Or they might say that they take in to account the extinction of the entire generation of the $t\bar{a}bi$ $\bar{i}n$ along with the generation of the Companions. In this case, they would be considering the extinction of each generation until

¹⁶⁸ Sahīh Al-Bukhārī 2651, 3650, 6428, 6685



the Day of Resurrection along with the generation of the Companions, due to the overlap of the generations, and this is impossible.

What is more insane about this view is that, according to their claim, if only Anas remained from the Companions, it would have been obligatory for him and others among the $t\bar{a}bi$ $\bar{b}n$ to retract what they had agreed upon. Anas would have closed this door, and what was permissible for them just before that would have become prohibited. This is madness enough.

And I wonder, when could he possibly circle around them in their regions? And how could he ever separate from them until they die? And when did they all gather for him in one place? There is nothing more foolish than this, nor anything more frivolous, nor anything in false religiosity that exceeds this. And we seek refuge in Almighty Allāh from misguidance.



Section: If The People Of The Current Generation Differ On An Issue

As for the one that says, "If the people of the generation differ on an issue, then $ikhtil\bar{a}f$ has been established and no $ijm\bar{a}$ is ever possible on that issue." This is a false saying because there is no ruling for $ikhtil\bar{a}f$ except rejection and preventing it and obliging the saying on everyone with what Allāh has ordered or what is authentic from the Prophet only and not more. So it is not allowed for anyone to affirm $ikhtil\bar{a}f$ and it is not allowed for anyone to oppose the truth. But the one that opposes it as a $j\bar{a}hil$ or with ta wīl then he is mistaken, excused and rewarded once just as we said before. It is obligatory on everyone whom the truth reaches to return to it, and if he is stubborn against it either with his heart or tongue knowing the truth then he is a $k\bar{a}fir$, and if he is stubborn with his action knowing the truth then he is a $f\bar{a}siq$ (sinner) as we said before, and Allāh is the source of strength.



Section: The People Of A Generation Differ And Then The Generation After Them Have An *Ijmā* 'On It

As for the one that says, "If the people of a generation differ, and then the next generation have $ijm\bar{a}$ on the sayings of the previous generation, then it is not allowed for anyone to oppose what that generation has an $ijm\bar{a}$ about."

This is impossible to have knowledge of this as we said before and we will add clarification to it for which no ambiguity is possible for the wise one by the will of Allāh.

So we say: Verily, there is no meaning to the consideration of what has an $ijm\bar{a}$ on from what is differed about, it is only either the truth or falsehood and the truth in the religion is nothing other than the words of $All\bar{a}h$ or what is authentic from the Prophet , transmitted connectedly only. This is what no one is allowed to oppose. And this is not strengthened or is better in being the truth when there is $ijm\bar{a}$ on it, and none of it is weakened if there is ikhtilāf on it, what is false is what is other than the nass, and we have said that the one with his ta'wīl and ignorance is excused or apostates if he opposes it with heart or tongue or is a sinner if he opposes it only with his actions. And Allāh is the source of strength. There is no possible way to have an $ijm\bar{a}$ from the people of any generation on what is other than the nass because other than the nass is falsehood and it is not possible for an $ijm\bar{a}$ of the ummah to exist on falsehood, as the Prophet said, "There will not cease to remain a group of my ummah upon the truth." So it is established that the first saying we began in the chapter is corrupt. And every single claim of theirs of $ijm\bar{a}$ are not real, it is impossible for any of that to be $ijm\bar{a}$ as clarified before and knowledge about it is impossible.

Section: Those That Say, "If The People Of The Generation Differ On Many Sayings."

As for the one that says, "If the people of the generation have differed on a large amount of different sayings or on more than one. Then that which they did not say, the $ijm\bar{a}$ establishes from them on abandoning that."

We have already said that it is impossible to have knowledge of this and to restrict it.

And we say as well by the will of Allāh: We had already said that it is not possible for the people of the generation to concur, for a split second and what is above that on a mistake, because of the saying of the Prophet $\stackrel{\text{def}}{=}$, "A group of my nation will not cease to remain upon the truth." Their sayings are all weak, not placed in the correct place, moving it from possibility to impossibility, whatever is in this manner, has no aspect left of consideration. So it is not allowed for anyone to claim $ijm\bar{a}$ in any manner other than we described, as that is a claim without $yaq\bar{u}n$, none of that is $ijm\bar{a}$, so none of them establishes that they must have concurred on a truth.

They also deceivingly said here, "The $ijm\bar{a}$ of the companions has been established after the Messenger of Allāh on the prohibition of selling $nmuh\bar{a}t$ $al-awl\bar{a}d$ (slave girls pregnant from their master), while their sale during the time of the Prophet was permissible. And the $ijm\bar{a}$ of the companions has been established on lashing eighty times for consumption of khamr, while this did not exist in the time of the Prophet. And their $ijm\bar{a}$ has been established on abolishing six of the seven ahruf which existed during the time of the Messenger of Allāh.

And we say by the will of Allāh: It is not possible with that for the people of the generation to have an $ijm\bar{a}$ any second, and whatever is above that is a mistake above a mistake because the Prophet said, "A group of my ummah will never cease to remain on the truth." All of these sayings are deserted, not placed in a valid manner which takes it out from possibility



towards impossibility, and what is of this manner there is no way to busy oneself with it.

They also deceivingly said here, "The $ijm\bar{a}$ of the companions has been established after the Messenger of Allāh on the prohibition of selling $nmuh\bar{a}t$ al- $awl\bar{a}d$ (slave girls pregnant from their master), while their sale during the time of the Prophet was permissible. And the $ijm\bar{a}$ of the companions has been established on lashing eighty times for consumption of khamr, while this did not exist in the time of the Prophet . And their $ijm\bar{a}$ has been established on abolishing/removing six of the seven ahruf which existed during the time of the Messenger of Allāh.

The answer: You have lied and fabricated, as for the lashing for *khamr* of eighty times, then Allāh has protected 'Umar from innovate a *ḥadd* for which no $wah\bar{\iota}$ has come from Allāh and His Messenger $\stackrel{\text{def}}{=}$.

And we ask you: What is the difference between what you falsely claim of innovating ($ihd\bar{a}th$) a hadd which the Messenger of Allāh #, has not ruled with for khamr, and establishing a hadd for sodomy by cutting off the male organ, or for $zin\bar{a}$ by lashing two hundred times, or cutting off the hand of a $gh\bar{a}sib$, or pulling out the teeth of one who eats the swine? And what is the difference between all of this and abolishing one prayer and adding another, abolishing the fasting of Ramaḍān, and emerging another month?

Whoever permits this has left Islām and disbelieved with clear disbelief, has become one with the *bāṭiniyyah*, *ghulāh* of the *rawāfiḍ*, Jews, and Christians who altered their religion.

And we ask you: What is the difference between what you falsely claim from innovating (*iḥdāth*) a *ḥadd* which the Messenger of Allāh , has not ruled with for *khamr*, and establishing a *ḥadd* for sodomy by cutting off the male organ, or for *zinā* by lashing two hundred times, or cutting off the hand of a *ghāṣib*, or pulling out the teeth of one who eats the swine? And what is the difference between all of this and abolishing one prayer and adding another, abolishing the fasting of Ramaḍān, and emerging another month?

Whoever permits this has left Islām and disbelieved with clear disbelief, has become one with the *bāṭiniyyah*, *ghulāh* of the *rawāfiḍ*, Jews, and Christians who altered their religion.

As for 'Umar, he only lashed the additional forty as a form of $ta'z\bar{\imath}r$, as it has been authentically narrated from him that if someone persisted in

drinking khamr, he would lash him eighty times, but if the person had only done it once or so, he would lash him forty times.

And O group who are not ashamed of lying, where is the ijmā 'you claim? For it has been authentically that 'Uthman, 'Alī, and 'Abdullah ibn Ja far, in the presence of the Companions, lashed forty times for *khamr* after the death of 'Umar¹⁶⁹.

And Hudayn ibn al-Mundhir Abū Sāsān narrated, "I witnessed when Walīd was brought before 'Uthmān ibn 'Affān after he had performed the dawn prayer with two rak'ahs and then said, 'Should I add more for you?' Two men testified against him, one of whom was Humran, who stated that Walīd had consumed khamr. The other testified that he had seen him vomiting. 'Uthmān said, 'He would not have vomited unless he had drunk it.' Then he instructed, 'Alī, stand and lash him.' 'Alī then said, 'Ḥasan, stand and lash him.' But Hasan responded, 'Let the one who enjoyed its comfort bear its heat.' ('Alī sensed annoyance at this remark.) Then he said, 'Abdullah Ibn Ja'far, stand and lash him.' 'Abdullah began lashing him while 'Alī counted until they reached forty lashes. 'Alī then said, 'Stop.' He continued, 'The Prophet gave forty lashes, Abū Bakr gave forty lashes, and 'Umar gave eighty lashes. All of these are within the Sunnah, but this (forty lashes) is more preferable to me."170

If lashing eighty times would be an *ijmā*, then 'Uthmān, 'Alī, ibn Ja far, al-Hasan and those that were present with them would have opposed the $ijm\bar{a}$, and the one that opposes $ijm\bar{a}$ according to these people is a $k\bar{a}fir$.

Then look at what their ra \tilde{i} have placed them in. And the a'immah are exalted from kufr, and from opposition to the truth, and from innovating (*ihdāth*) of *shar* 'not permitted by Allāh.

If it is said, "What then is the meaning of 'Alī's statement that all (forty and eighty lashes) are Sunnah?"

We say: He has spoken the truth for $ta'z\bar{\imath}r$ is a sunnah.

If it is said, "What then is the meaning of 'Alī's statement that all (forty and eighty lashes) are Sunnah?"

We say: He has spoken the truth for $ta'z\bar{t}r$ is a Sunnah.

If it is said, "Ta'zīr according to you cannot exceed ten lashes."

¹⁶⁹ Sharh Mushkil Al-Āthār 6/240

¹⁷⁰ Sahīh Muslim 1707

We say: It is possible that 'Umar lashed him ten lashes for each cup as a form of $ta'z\bar{t}r$, and this is permissible. Some have attempted to make ta'allul of this narration, those who do not care about what their tongues hastily say in support of their misguidance.

The narration narrated that 'Alī said, "I would not feel regret if someone were to die as a result of receiving a hadd, except in the case of the consumer of khamr. If he were to die from such a hadd, I would compensate his family with blood money. This is because the messenger of Allāh add did not establish a Sunnah of it." ¹⁷¹

Be amazed at the blindness of this person who attempts to make *ta'līl* an authentic narration that has not a single flaw by using a narration filled with *'ilal*. The first of these is that the narrator is differed in—sometimes he is mentioned as 'Umayr Ibn Sa'īd, sometimes 'Umayr Ibn Sa'd, sometimes as Nakha'ī, and sometimes as Hanafī.

Then we say to them: If someone here would claim the opposite of $ijm\bar{a}$, he would speak the truth against you, because you acknowledge that 'Umar was the first one that lashed eighty times for consumption of *khamr*, and before that $ijm\bar{a}$ 'had been established that it is forty, so you have then acknowledged against yourselves opposition to $ijm\bar{a}$.' And you have attributed to 'Umar opposition to $ijm\bar{a}$ ', while Allāh has saved him from that, as for you know yourselves better and your acknowledgment against yourselves is necessary against you. And if you then seek refuge in the position of $inqir\bar{a}d$ al-'asr then you are implied the same thing about the lashing of 'Uthmān and 'Alī of forty lashes for consumption of khamr after them without difference.

Be amazed at the blindness of this person who attempts to make *ta'līl* of an authentic narration that has not a single flaw by using a narration filled with *'ilal*. The first of these is that the narrator is differed in—sometimes he is mentioned as 'Umayr Ibn Sa'īd, sometimes 'Umayr Ibn Sa'd, sometimes as Nakha'ī, and sometimes as Ḥanafī. Then, the greatest calamity is how this misguided individual makes something a *ḥujjah* in which 'Alī said himself that he feels regret and that what he does not find in the other *ḥudūd*, if it would be the truth and a Sunnah, then he would not feel regret till the point that he compensates his *diyah* if he dies from that lashing, and why would he not feel the same for the other *hudūd*, what is in that is sufficient. And then

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¹⁷¹ Şaḥīḥ Al-Bukhārī 6778

refuge in Allāh is sought from affirming for 'Alī in the religion what is not made a Sunnah by the Prophet 3, and even if it would be authentic, then it would be clear that he would only feel regret in the additional forty as ta'zīr and the narration where he said is a Sunnah would then be an additional knowledge of him, something afterwards.

Then we say to them: If someone here would claim the opposite of ijmā', he would speak the truth against you, because you acknowledge that 'Umar was the first one that lashed eighty times for consumption of khamr, and before that $ijm\bar{a}$ had been established that it is forty, so you have then acknowledged against yourselves opposition to ijmā'. And you have attributed to 'Umar opposition to ijmā', while Allāh has saved him from that, as for you know yourselves better and your acknowledgment against yourselves is necessary against you. And if you then seek refuge in the position of ingirā dal-'asr then you are implied the same thing about the lashing of 'Uthman and 'Alī of forty lashes for consumption of khamr after them without difference.

We have clarified this issue related to the *hadd* of *khamr* further the greatest of details in the chapters in which we clarified the falsehood of qiyās, so refer to that.

As for ummuhāt ul-awlād (female slaves who have borne children from their masters), then the lie about this is far worse from any lie.

Jābir Ibn 'Abdullah al-Ansāri said, "We sold ummuhāt al-awlād during the time of the Prophet # and Abū Bakr, when it was 'Umar (as the authority) he prohibited us from that so we abstained."172

This was then the action of the people during the time of the Messenger of Allāh and also Abū Bakr.

Zaid ibn Wahb, who said, "I went with a man to 'Abdullah ibn Mas'ūd to ask him about *umm al-walad* (singl. of *ummuhāt al-awlād*) while he was praying. Two men were beside him. When he finished praying, we asked him, and he said to one of them, 'Who taught you?' The man replied, 'Abū 'Abdah or Abū al-Hakam al-Muzanī taught me.' The other said, 'Umar ibn al-Khattāb taught me.' Ibn Mas'ūd cried until his tears wet the stones, and he said, 'Read as 'Umar read to you, for he was a strong fort for Islām. People would enter it and not leave. When 'Umar was struck (passed away), the fort was breached, and people began leaving Islām.' He then said regarding umm

¹⁷² Sunan Abi Dāwūd 3954

al-walad,' 'She is freed from her child's share.'" And Zaid ibn Wahb said, "A man from among us died and left behind umm al-walad. Al-Walīd Ibn 'Uqbah wanted to sell her to settle his debt. We went to Ibn Mas'ūd and found him praying. We waited for him until he finished his prayer, and then we mentioned the matter to him. He said, 'If you must do it, then allocate her to the share of her child."¹⁷³

'Aṭā' ibn Abī Rabāḥ said, "Ibn Al-Zubayr emancipated Umm Habi, the mother of Muḥammad Ibn Suhayb, from her child's property and included her in his share, and he called her son Khālid. Ibn 'Abbās said, 'The *umm ul-walad* is not to be freed until her master explicitly declares her freedom.'"¹⁷⁴

'Ubaidah Al-Salmānī said, "'Umar ibn al-Khaṭṭāb and 'Alī ibn Abī Ṭālib emancipated the *ummuhāt al-awlād*. 'Alī ibn Abī Ṭālib said, 'So 'Umar ruled this way until he was struck (killed), and then 'Uthmān ruled this way until he was struck (killed). When I took over, I saw that I should servitude them.'"¹⁷⁵

And this is the saying of Zaid Ibn Thabit and others. So it is said to those whose eyes Allah has blinded: Do you admit that 'Umar was the first to forbid the sale of them?' They answer 'Yes,' and they claim that this is the ijmā' of all the companions of the Prophet #. It is then said to them: You have claimed that 'Umar acted against the ijmā' with this action if you say that the Muslims were selling them until 'Umar forbade it, is there a greater disagreement with ijmā 'than this? Or did you lie when you said that 'Umar was the first to forbid their sale? One of these must be true, and Allah has protected 'Umar from opposing the $ijm\bar{a}$ '. As for you, you know yourselves better, and your admission is binding upon yourselves. And also, if it were true that 'Umar and those who agreed with him constituted an ijmā', you would be obliged to admit that Ibn Mas'ūd, 'Alī ibn Abī Ṭālib, Ibn 'Abbās, Ibn al-Zubayr, and Zaid ibn Thābit opposed the *ijmā* '. And according to you, opposing $ijm\bar{a}$ is disbelief. So consider the tight corners you are cornering yourselves into and the precipices you are falling into. You must either admit to this or acknowledge your false claim of ijmā' regarding 'Umar's ruling. There is no escape from one of these options. As for us, claiming $ijm\bar{a}$ in

 $^{^{173}}$ Al-Muşannaf by 'Abd al-Razzāq 13214, 7/289 | Sunan by Sa'īd Ibn Manşūr 2061, 2/63

¹⁷⁴ Al-Muṣannaf by 'Abd Al-Razzāq 13220, 13216, 7/290

 $^{^{175}}$ Sunan by Sa'īd Ibn Manṣūr 2046, 2048, 2/60-61

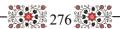
such matters is falsehood, lies, and audacity in falsifying the beliefs of all Muslims. We do not deny the possibility of error in judgment or mistake with the intention of seeking the truth and good, after the Messenger of Allāh . We only speak on matters of religion with a text from the Qur'an or a wellestablished Sunnah from the Messenger of Allāh and we do not care who opposes this, nor do we take pride in it.

And it is narrated that Ibn 'Abbās said, "Mention was made of Umm Ibrāhīm in the presence of the Messenger of Allāh, and he said, 'Her son (if he is born) sets her (from being a slave-girl) free."176 Meaning that the slave-girl is then free and any free person cannot be sold. So the Prophet # selling *umm al-walad*, he did not permit it and the companions after him that prohibited it did not prohibit something he # had permitted, they instead followed his # prohibition.

And by the evidences from the other established *nusūs*, we have mentioned them in the book Al-Īṣāl, we do not say about except the sale of ummuhāt al-awlād, except in accordance with the authentic established Sunnah which is not allowed to be opposed, we do not care about the opposition of Ibn 'Abbas to what he narrated, as it is possible that he opposed it with ta'wīl that it is khuṣūṣ, or forgotten what he narrated and Allāh has never burdened us ever to consider the sayings of anyone, we are only obliged to accept the narrations about the Prophet # of those that go to obtain knowledge in the religion and warn those with them from the mu'minīn, from that what reaches them and that is established from them about the Prophet غالله غلاق

As for the claim that 'Uthman gathered the people on abolishing six of the seven aḥruf by which the Qurʿān was revealed to the Prophet #, this is a severe claim and apostasy from Islām, we have answered this in the greatest details in the chapters about *qiyās* in this book, and all praise is for Allāh.

¹⁷⁶ Sunan Ibn Mājah 2516



Section: About Those Who Say, "As Long As It Is Not Known That There Is *Ikhtilāf*, Then It Is An *Ijmā* 'And The Expansion Of The Discussion On What Is *Ijmā* 'And What Is Not *Ijmā* '

We have previously mentioned the two types of $ijm\bar{a}$, beyond which there is no other $ijm\bar{a}$ in the world at all. These are:

A matter that no one is considered a Muslim if they do not believe in it, such as the shahādah, "Lā Ilāha Illa Allāh Muḥammadun Rasūlullah," and Barā'ah from any religion other than Islām, and like the entirety of the Qur'ān, the five daily prayers, and fasting the month of Ramaḍān. No Muslim or *Kāfir* doubts that the Messenger of Allāh acalled people to this *shahādah*, judged the name of Islām and its rule for those who responded to it, and judged by the name of kufr and its rule for those who did not respond to it. And the people of Islām after him # have continued this practice to this day. And Neither a mu'min nor a kāfir doubts that he performed the five daily prayers with everyone present five times each day and night, and that women and those with excuses prayed in their homes similarly, and that the people of every locality, every village, and every locality in every city with Islām in it prayed every day from his time , to this day without disagreement. The same applies to the adhān and the iqāmah, and the ghusl after sexual impurity, and the $wud\bar{u}$. And neither a mu'min nor a $k\bar{a}fir$ doubts that the Prophet # fasted the month of Ramadan, which is between Shawwal and Sha'ban, every year, and that every adult Muslim, male or female, who was present fasted with him in his time and after him in every place and every year up to this day. Neither a *mu'min* nor a *kāfir* doubts that he # performed the pilgrimage to Mecca in dhul-hijjah, and that an innumerable number of people performed the pilgrimage with him, known only to their Creator, Exalted is He, and that people have continued to perform the pilgrimage every year to Mecca in dhul-hijjah to this day. Similarly, the entirety of the

Qur'ān—neither a *mu'min* nor a *kāfir* doubts that he scame with it and stated that Allāh Almighty revealed it to him. And likewise the prohibition of marrying the mother, daughter, grandmother, maternal aunt, paternal aunt, sister, niece from the sister, niece from the brother, consuming swine, carrion, and many other things. Every mu'min and a kāfir is certain that the Prophet , established this and taught it to the Muslims, and the Muslims have taught it from generation to generation in every time and place, certainly, except for those who are extremely ignorant and who have never heard of it, such as a Bedouin or one brought from the lands of disbelief. There is no disagreement that if someone knows this and responds to it, they are a Muslim, and if they do not respond to it, they are not a Muslim. And in some matters that follow this course, disagreement arose after the ijmā 'was established and confirmed on them, such as khamr, jihād, and other matters. Some people have seen that jihād must not be conducted with opressive rulers, and this person is excused for their ignorance and mistake as long as the *hujjah* is not established against them. If the *hujjah* is established against them and they persist in opposing the Messenger of Allah then he is a kāfir, mushrik, whom the blood and property is permissible. Because of the saying of Allah, "But no! By your Lord, they will not believe until they accept you 'O Prophet' as the judge in their disputes and find no resistance within themselves against your decision and submit wholeheartedly" [4:65].

If it is said, "But the Prophet said, 'The fornicator does not fornicate while he fornicates being a mu'min. And the one stealing does not steal while he is a mu'min. And he does not consume khamr while he is a mu'min.'177 Then why do you not take them out from īmān just as you took out from $\bar{\imath}m\bar{a}n$ those that find in themselves resistance within themselves against the Prophets decision and abandon his ruling?"

We say: Because the Prophet same to the fornicator, the one stealing and the one consuming khamr and ruled them with the ruling of the muslims, not the ruling of the infidels (he did not apply against them the ruling of *riddah*). So they leave with that from *kufr* and then those remain for whom no nass has come of taking them out from kufr letting them remain on īmān so they are taken from $\bar{t}m\bar{a}n$ just as it is mentioned in the *naṣṣ*. This is one of the two types of $ijm\bar{a}$ '.

¹⁷⁷ Sahīh Al-Bukhārī 2475

The second type: Something that is known with certainty by the connected transmission, affirmed that the Prophet # knew it, and everyone did it, who were present, or weak, or absent not present. Such as the conquest of Khaybar and the Prophet giving it, after its division among the Muslims, to the Jews on the condition that they work it with their wealth and themselves, and they would receive half of what it produced in crops or dates, with the condition that the Muslims could expel them whenever they wished. Likewise, everything that has come in this manner is an $ijm\bar{a}$ 'that is certainly established as true by every Muslim who knows it or has received it, although there were those who, after that, disagreed out of mistake or misunderstanding, and they are excused for their ignorance as long as the hujjah has not been established against them, as we mentioned before. There is no difference. Therefore, there is no ijmā' in Islām except what has come in this manner. Whoever claims $ijm\bar{a}$ in anything other than what we have mentioned is a liar, a fabricator, and a slanderer against all Muslims, speaking about them with what he has no knowledge of. Allah, the Exalted, has said, "And do not pursue that of which you have no knowledge" [Qur'ān 17:36]. And He, the Exalted, said, criticizing a people who said, "And when it is said, 'We assume only assumption, and we are not convinced" [45:32]. And He, the Exalted, said, "They follow not except assumption and what [their] souls desire, and there has certainly come to them from their Lord guidance" [53:23]. And He, the Exalted, said, "They follow not except assumption, and indeed, assumption avails not against the truth at all" [53:28]. So it is established by the nass of the words of Allah which no Muslim objects to that zann is not the truth and as it is not the truth it is falsehood without doubt. As there is no way for a third type. And the Prophet said, Beware of zann, for zann is the most false saying." This is the truth, which no one who hears it can deny.

Section: *Ijmā ʿ Sukūtī*

Then, after the fourth century, a group emerged who paid little attention to what they were saying in the religion of Allāh, the Exalted. They did not think carefully about what they were attributing to Allāh, the Almighty, or His Messenger , or to all Muslims, to save $taql\bar{\iota}d$ of those who do not benefit them in any way before Allāh, such as Abū Ḥanīfah, Mālik, and Al-Shāfiʾī, may Allāh have mercy on them, who have disavowed themselves of the $taql\bar{\iota}d$ that these people are upon. So when they needed an excuse to justify their mistakes, they relied on it, and their grave mistakes in their disputes contradicted both the nass of the Qurʿān and Sunnah. They persisted stubbornly, weakly, ineffectively, making their claws dig into the hard rock of their obstinacy. They sent it off saying, "This is $ijm\bar{a}$ '!"

A group of people said, "If there is not known an opposition to the saying from one of the companions, then it is an $ijm\bar{a}$, and even if opposition appears to it in the next generation."

This is what groups of the Mālikiyyah, Ḥanafiyyah believe in, then the Shāfi 'iyyah have joined them in this tumult. And then they differed.

A group said, "Whether that saying spreads or not it is an ijmā'."

And a group said, "It only becomes an $ijm\bar{a}$ if it becomes well known and spreads, as for when it does not spread or is well known then it is not an $ijm\bar{a}$."

And a group said, "It is only $ijm\bar{a}$ if it is a saying from one of the four a immah: Abū Bakr, 'Umar, 'Uthmān and 'Alī only and if it spreads with that, otherwise it is not an $ijm\bar{a}$. And if it is a saying from other than them, then it is not a hujjah even if it spreads."

And a group said, "None of that is an ijmā', but it is still a hujjah."

Indeed, those who made these statements among them did so only when they found anything possible that supports their position, even as the rope slipped from their hands and they had nothing to support their mistake and $taql\bar{\iota}d$. Yet, they are the first to abandon these positions if it contradicts

their *taqlīd*. They face no difficulty in nullifying what they had once validated and validating what they had nullified at that time. Each of them is concerned only with winning the argument with their opponent in that moment. If they move on to another issue, the easiest thing for them is to validate what they had nullified in the previous issue and to nullify what they had validated in it.

Al-Ajharī Muḥammad Ibn Ṣālih Al-Mālikī mentioned, who narrated from Ibn Bukayr—each of them being among the $muqallid\bar{n}n$ of the Mālikī madhab—that Mālik's principles $(us\bar{u}l)$ were built upon his branches $(fur\bar{u}')$. If his saying on a matter was general, he would say, "My general saying." And if his saying on another matter was specific, he would say, "My specific saying."

I have seen in the book by 'Abd Al-Wahhāb Ibn 'Alī Ibn Naṣr Al-Mālikī, known as Sharḥ Al-Risālah in the chapter on "Who is Emancipated when Acquired by a Person," where he mentioned Dāwūd's saying that no one is emancipated by anyone, and he mentioned the saying of Abū Ḥanīfah that every close relative is emancipated. He said, "Our argument against Dāwūd is the saying of the Messenger of Allāh, "Whoever acquires a close relative becomes free," and this is a clear text."

Then, six lines later, he turns to the saying of Abū Ḥanīfah and says, "If he argues with the <code>hadīth</code> reported from the Prophet, "Whoever acquires a close relative becomes free,' we say this narration is not authentic."

I cannot count how many times I have found that the Mālikīs, Mālikīs, and Shāfi 'īs validate the narrations of Ibn Lahī 'ah and the *silsilsah*: 'Amr Ibn Shu 'ayb —» his father —» his grandfather, when those narrations go in accordance with their *taqlīd* in that particular issue. Yet, perhaps on the next page, or after a page or two, they would refute their opponent's argument when it is based on the *silsilsah*: 'Amr Ibn Shu 'ayb —» his father —» grandfather, or the narration of Ibn Lahī 'ah, saying, "It is a *ṣaḥīfah* and Ibn Lahī 'ah is weak."

These are the actions of those that do not fear Allāh, and this action obliges bad thoughts about the inside of his beliefs, and we seek refuge from Allāh of being deserted.

Allāh said, "They make it *ḥalāl* one year and *ḥarām* one year" [9:37].

 $^{^{178}}$ Sunan Abī Dāwūd 3949 | Sunan Al-Tirmidhī 1365

And Allāh said, "Why do you say what you do not do? It is most hateful in the sight of Allāh that you say what you do not do" [61:2-3].

And Allah said, "So do you believe in some of the book and disbelieve in some?" [2:85].

Allāh rejected the one that makes tashīh of something once and then invalidates it another time, while their sayings which we mentioned in this chapter are false claims without certain decisive evidence and no istidlal at all, except what has also preceded before of us invalidating their saying, "They do not acknowledge falsehood."

So we say to them: Where do you get it from that they did not reject it and everything else we mentioned before, we invalidated these statements before entirely.

They say, "Ijmā' Sukūtī is a hujjah and if there is no clear Qur'ān or Sunnah on an issue, then a saying of a *Sahābī* for whom there is no *mukhālif* is a hujjah even if it is not widespread. It being widespread indicates wide acceptance and agreement, if it was not widespread, then we would not know if the remaining of the Sahābah knew about it. So we reach by that confident knowledge and by that say that it is *ijmā* '. And we only take from *Ijmā* 'Sukūtī if it does not oppose the Qur'an and Sunnah."

The answer: This is all mere zann, no one is unable to make up hurā ' similar to it. There is no difference between this claim of certainty here and the one claiming the view of the majority gives him certainty and that because of that that is must have been from the Prophet and likewise for every other corrupt method, no one is unable to make such false claims. And there are dozens of narrations from the companions in which they disagree but do not show inkār nor khilāf and instead go along with the falsehood such as Ibn 'Abbās lashing those who pray after 'aṣr with 'Umar while Ibn 'Abbās did not believe in that ruling and after 'Umar he would pray after 'asr and many other narrations. Then how can anyone come and say, "If we do not know opposition, they all agree on its correctness?" We have also mentioned hundreds of *fatāwa* from the companions before for which no text exists from the Our an and Sunnah. From them several times where no opposition is known while it is not only sayings that oppose in the manner that they are not in the Qur'an and Sunnah but also sayings that oppose that was is mentioned in the Qur'an and Sunnah such as the issue of the permissibility of selling the mushaf And Ibn 'Abbas himself by his own acknowledgment said that he did



not show 'Umar his disagreement regarding 'awl because of the reason that he feared him. And there are dozens of narrations from the companions demanding each other a saying from the Prophet $\frac{1}{2}$ for the ra ' \bar{t} of each other.

The answer: The one that reaches this level is not allowed to speak about the religion of Allāh, we have clarified in the greatest of details that Allāh has obliged us accepting the narrations of *thiqāt* from the Prophet, it is not because of anything other than that. As for your mere claims there has not come a single *naṣṣ* for that. If they mention the narration, "Upon you is the Sunnah of the four rightly guided Caliphs, cling unto it with your molar teeth."

We say: Everything we mentioned before establishes that the words of this narration is only about accepting what they come with from the narrations from the Prophet, so not anything other than that. We know that the Prophet does not order something that is impossible to do. And we find that the rightly-guided caliphs after him differed greatly with each other in thousands of differences. So there is no other way than three possibilities for which there is no fourth: Either we accept everything they differed on, and this is impossible and no one is able to because there is in it a thing and its opposite, and there is no way to the ruling of giving the grandfather inheritance without the brothers, according to Abū Bakr and 'Ā'isha, and at the same time giving him only one-third and the rest to the brothers, according to 'Umar, and giving him one-sixth and the rest to the brothers, according to 'Alī. The same applies to every single other matter in which they disagreed. So this is false and impossible because it is beyond anyone's ability to carry out. Or it is permissible for us to choose whichever of their sayings we like and this is an exit from Islām, because it is leaving Allāh's religion to our own choice, allowing each one of us to prohibit or permit as he pleases, with one person forbidding what another permits. And also if the Messenger ordered the following of the Sunnah of the rightly-guided Caliphs, then this by necessity does not cease from one of two possibilities: either the Prophet

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¹⁷⁹ Sunan Abī Dāwūd 4607

permitted them to establish new Sunnahs other than his own, which no Muslim says, and whoever permits this has disbelieved, apostatized, because the entire religion is either obligatory or non-obligatory, either prohibited or permissible. There is no other category in the religion other than these. Whoever permits for rightly-guided Caliphs to have a Sunnah that the Messenger of Allāh did not make a Sunnah has permitted them to prohibit something that was permissible during the lifetime of the Prophet # until his death or to make permissible something that the Messenger of Allah # prohibited, or to impose an obligation that the Messenger of Allāh did not make an obligation, or to omit an obligation that the Messenger of Allāh # made an obligation And all these, whoever allows any of these, he is a disbeliever and a polytheist by the $ijm\bar{a}$ of the entire *Ummah* without any disagreement, and with the success from Allah, this view has been nullified, praise be to Allāh.

As for it being an order to follow them in their adherence to the Sunnah of the Prophet, their narrations about him, then this is just as we say, and this narration is not understood in a different way at all. Allāh says, "This day I have completed for you your religion and completed My favor upon you." [Al-Mā'idah: 3] And His saying, "These are the limits of Allāh, so do not transgress them" [Al-Baqarah: 229]. And His saying, "And do not dispute!" [Al-Anfāl: 46]. This invalidates this corrupt saying and necessitates that what was prohibited at that time remains prohibited until the Day of Judgment, and what was obligatory at that time remains obligatory until the Day of Judgment, and what was permissible at that time remains permissible until the Day of Judgment. And also, if this would be the case, then if we took one saying of one of them, we would have left the saying of the other, and there is no way out of that situation. So we would not be following their Sunnah, and we would be opposing the narration, whether we wish to or not. This is very evident, and all praise is for Allāh.

Then we ask them: Can the ruling of one issue be *ḥalāl*, *ḥarām*, and wājib at the same time? If they say "Yes" their answer is suffices. If they say "No" Then we say: Yes, and someone would not be far from the truth if he were to say that there are a thousand sayings from the companions in which one rules the issue *ḥarām* and the other as *wājib* and the other as *ḥalāl*. This is the essence of ikhtilāf and Allāh ordered us to return all of that to nothing other than the Qur'an and Sunnah.



Any $fatw\bar{a}$ does not cease to be one of four:

Either obliging something that is not obligatory from the texts of the Qur'ān and Sunnah.

Omitting the obligation of something obligatory in the texts of Qur'ān and Sunnah.

Making the *ḥalāl* which texts have prohibited *ḥarām*.

Making harām that which no texts have made harām

So the hundreds of their false *fatāwa* and your saying, "But those are only when it's against the *naṣṣ*," is false as all of that is against the *naṣṣ*. Everything that is not in the Qur'ān and Sunnah opposes the Qur'ān and Sunnah, whether it is mentioned in it or not.

Then they are asked: Can $ijm\bar{a}$ 'suk $\bar{u}t\bar{t}$ make $takh\bar{s}\bar{t}\bar{s}$ of the texts of the Qur'ān or not?

If they say "No" their answer suffices.

If they say "Yes."

Then we say: This invalidates your entire claim that $ijm\bar{a}$ 'suk $\bar{u}t\bar{t}$ is not in opposition to the Qur'ān and Sunnah. So if those four categories are not an opposition. And this is also not an opposition, and you accept all of that. Then according to you $Ijm\bar{a}$ Suk $\bar{u}t\bar{t}$ never opposes nass and the condition you set has no meaning to it while it is without it falsehood by its essence.

Then we say to them: Can this $Ijm\bar{a}$ ' $Suk\bar{u}t\bar{\iota}$, which is according to you the order, or prohibition or permissibility of the Prophet $\stackrel{\text{\tiny{de}}}{=}$ abrogate the Sunnah or can it not abrogate it?

If you say, "It cannot abrogate it," which is their answer. Then we say: You just said *Ijmā* 'Sukūtī is a certainty that it must have been from the Prophet. Then you have ruled that something certain from the Prophet cannot abrogate another thing the Prophet came with!

If they say, "The *Ijmā* ' *Sukūtī* gives us less confident knowledge so it cannot abrogate the narrations from the Prophet .\equiv"

We say: Is $Ijm\bar{a}$ 'Suk $\bar{u}t\bar{\iota}$ then $yaq\bar{\iota}n$ or not $yaq\bar{\iota}n$? There is no third option.

If you say, "It is *yaqīn*," then *yaqīn* does not vary in any degrees; if it is affected by any doubt or invalidity, it is entirely nullified.

And if you say, "It is not $yaq\bar{\imath}n$," then their entire method on $Ijm\bar{a}$ 'Suk $\bar{\imath}u\bar{\imath}t\bar{\imath}$ and what is less than that falls apart as nothing in the religion is binding

except yaqīn and the falsehood of this corrupt method is then as clear as the difference between light and darkness and all praise is for Allāh.

Then it is said to them: How do you dare to attribute $ijm\bar{a}$ to those from whom you have not received anything on this matter? Do you not fear Allāh?

The great ones among them said, "Whatever spreads among the scholars and becomes well-known among a group of them, without any clear opposition from others, is $ijm\bar{a}$. This is because they are the people of virtue whom Allāh, the Exalted, has ordered to be obeyed. It is impossible that they would hear something they disapprove of and not reject it, so it is evident that they are content with it."

The answer: This is everything they have to justify their claims. They have no basis other than this, we have invalidated it entirely before. And this is mere obfuscation from them, which is obliterated by the certain decisive evidences in which there is nothing obscure in, we will now also mention by the will of Allāh other certain decisive evidences, and in him we seek aid: If we say to you, "This is something in which you do not know of any disagreement," is it possible that there exists a disagreement from a Companion, a $t\bar{a}bi$ \bar{t} , or a scholar after them that has not reached you, or is it absolutely impossible? If they then say, "If a scholar said this saying (claiming an $ijm\bar{a}$), then it is $ijm\bar{a}$; if a non-scholar said it, then it is not an ijmā',"

We say: You have went down a stage, and our question remains the same regarding that scholar, as we presented it in the exact same manner.

If they say, "It is possible that there could be disagreement that did not reach that scholar." We say: You have acknowledged your falsehood because you have claimed that it is *ijmā* 'while simultaneously allowing for the possibility of disagreement."

If they say, "But it is not possible that there could be disagreement." We say: And from where do you know that this scholar has encompassed all the sayings of *ahl ul-islām*?

We will start with the Companions, may Allah be pleased with them. We say, with certainty and without any doubt, that they were tens of thousands. The Messenger of Allah , led the campaign of Hunayn with twelve thousand people, and he led the campaign of Tabūk with more than that. He performed the Farewell Pilgrimage with a number greater than that,



and delegations came to him from every tribe of the Arab tribes. They embraced Islām, asked him about religion, and were taught the Qurʿān and prayed with him. All of them are considered Companions.

We have thoroughly counted those from whom among them *futyā* is narrated on a single issue and more than that and found only one hundred and fifty-three companions, both men and women, with our extensive search and attention. Of these, only seven among them had many *fatāwa*, they are: 'Umar, his son 'Abdullah Ibn 'Umar, 'Alī, Ibn 'Abbās, Ibn Mas'ūd, *Umm al-Mu'minīn* 'Ā'isha, and Zaid Ibn Thābit.

The intermediate ones are thirteen, all $fat\bar{a}wa$ of them gather only a only part. So, these are only twenty companions, and the rest are very few, from whom we have no narration except only one $fatw\bar{a}$ on a single issue, and some among them two and more issues. The $futy\bar{a}$ of all of them gathers only one part, which is closer to very few than a lot.

Do you then think that the others did not give any *fatwā*, not even a single issue at all except for this? By Allāh, this is pure falsehood, deceit, and distortion.

Then there is what Allāh has explicitly stated in the Qur'ān about certain groups of *jinn* who embraced Islām. He said, "Say, 'It has been revealed to me that a group of *jinn* listened [to the Qur'ān] and said, 'Indeed, we have heard an amazing Qur'ān. It guides to the right course, and we have believed in it. And we will never associate with our Lord anyone'" [72:1-2].

And Allāh, the Exalted, describes them as saying, "And among us are the righteous and among us are [others] not so" [72:11].

And that they said, "And among us are Muslims and among us are unjust. So whoever has submitted - those have sought out the right course" [72:14].

And it has been established from the Prophet ** that he told that a group from the *jinn* came to him, embraced Islām, pledged allegiance to him, and was taught the Qurʻān¹⁸⁰.

So it is established that among them were righteous and guiding Muslims, from among the best of the Companions. No Muslim denies this, and whoever denies it is a $k\bar{a}fir$, and his blood is lawful.

So, you, assume you have it your way, to have knowledge about the words of tens of thousands of people among the Companions, even if you

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 $^{^{180}}$ Şaḥīḥ Muslim 25, 1/332-333 | Sunan Al-Tirmidhī 18, 3258

have not received from them a single word about what you claim to be their $ijm\bar{a}$, do you think can also claim $ijm\bar{a}$ among those Companions from the jinn based on your false assumptions?

If the unjust among the devils of *jinn* lead you to that, and you follow them, your falsehood will become doubly disgraceful, and your lie will be exposed to everyone, young and old. But if anything restrains you from that, it will invalidate your claim of $ijm\bar{a}$, and there will be no escape from this. For they, like the other Companions, are ordered and prohibited, mu'minūn, promised and threatened, with no difference.

If they say, "Their rulings are different from ours."

We say: You have lied, both are the exact same as Allāh approved their saying, "And among us are Muslims and among us are unjust" [72:14].

Islām is one, except for what has come with an authentic nass that specifies them, as they were also specified, like the Quraysh in leadership and the Banū 'Abd al-Muttālib in receiving a share of the spoils, and the likes of that.

Then the generation of the Companions, may Allah be pleased with them, passed, and the generation of the $t\bar{a}bi$ $\bar{i}n$ came. They filled the earth, including the lands of Khurasan, which are large cities and many villages known only to their Creator, such as Kābūl, Persia, Isfahan, Ahwaz, the mountains, Kerman, Sistan, Makran, Sudan, Iraq, Mosul, the Jazīra, the lands of Rabī ah, Armenia, Azerbaijan, Hijāz, Yemen, Shām, Egypt, Algeria, Africa, the lands of the Berbers, and the land of Andalusia. There is no large village except someone giving fatwā, and no city without those giving fatwā. Who, then, is the ignorant, shameless one who claims to have knowledge encompassing the saying of every single faqth in all these lands from the time they issued their *fatwās* until they died? Everyone knows by necessity that such a person is a blatant liar, weak in the religion, and shameless. So, the claim of $ijm\bar{a}$ is invalidated, just as every impossible claim is invalidated except where we have previously mentioned.

If they say, "This thing is an $ijm\bar{a}$ according to me only."

This statement is completely false, because $ijm\bar{a}$ according to one person, is then not ijmā' according to others, from the falsehoods is that something can be an $ijm\bar{a}$ 'according to someone and not have an $ijm\bar{a}$ 'at the same time.

And also, if someone says, "This is an *ijmā* according to my view," it is false because it is prohibited to claim certainty based on mere assumption. The meaning of such a statement is merely that they think it is an *ijmā*, and we have already clarified in detail the prohibition of claiming based on assumption. Allāh Almighty said, "And you said with your mouths what you had no knowledge of, thinking it was insignificant, while in the sight of Allāh, it was grievous" [24:15]. And Allāh also said, "Here you are, arguing about something of which you have some knowledge, but why do you argue about something of which you have no knowledge? Allāh knows, and you do not know" [3:66].

And Mālik said in his Muwaṭṭaʿ when he mentioned the obligation of returning the oath to the plaintiff if the defendant refuses to take an oath. Then Mālik said, "This is something that is undisputed among people and in any land."¹⁸¹

This is a very serious matter, verily those who oppose the return of the oath are more numerous than those who believe in its return.

Mālik said, "Not everyone knows that the oath must be returned."

And Al-Shāfi 'ī saying about the *zakāh* of cows, "For thirty (cows) a *tabi'* (a one-year-old calf), and for forty (cows) a *musinnah* (a two-year-old cow). I do not know of any disagreement on this." 182

While the disagreement in this matter is known from Jābir Ibn 'Abdullah, Sa'īd Ibn al-Musayyib, Qatādah, and the officials of Ibn al-Zubayr in Madīnah, then from Ibrāhīm al-Nakha'ī and Abū Ḥanīfah, and it is too well-known for anyone to be ignorant of that, by anyone who engages in knowledge. There are many like this, except for those who say, "I do not know of any disagreement," for they have spoken truthfully about themselves, and there is no blame on them. Rather, the confusion, disgrace, and fire are upon those who dare to lie openly and make claims of *ijmā* 'when they only do not know difference of opinion.

And they have claimed that there is $ijm\bar{a}$ that $qa\bar{s}r$ of the prayer for less than forty-six miles is incorrect. By Allāh, those among the Companions and the $t\bar{a}bi$ $\bar{i}n$ who say that it is permissible to make $qa\bar{s}r$ of the prayer for less than that are many times more than those who say it is only permissible at forty-six miles.

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¹⁸¹ Al-Muwatta ' 2/726

¹⁸² Al-Hāwī al-Kabīr 3/216-217

If these ignorant people, who have no knowledge of the statements of the Companions and the $t\bar{a}bi$ $\bar{i}n$, knew only the narrations from Mālik regarding shortening the prayer at thirty-six miles, at forty miles, at forty-two miles, and at forty-five miles, and then his statement about the one who makes ta'wīl and breaks his fast at three miles during Ramadān, not above three, that there is nothing upon him except to make it up, they would not make such claims.

And they claimed $ijm\bar{a}$ that the blood money (diyah) for a Jew and a Christian is a third of the blood money for a Muslim, no less. This is false; we have narrated from Al-Hasan Al-Baṣrī, through the most authentic chain, that their blood money is like that of a Magian, eight hundred dirhams ¹⁸³.

And they claimed $ijm\bar{a}$ that two witnesses are accepted in cases of murder. And we have narrated from Al-Hasan Al-Baṣrī, through the most authentic chain, that in cases of murder, only four witnesses are accepted, just like in cases of adultery.

They have many such claims, like their claim of ijmā' on the obligation of five camels as blood money for a mūdiḥah (a wound exposing whiteness of the bone), and many other similar claims.

Indeed, we have found many hundreds of issues of Abū Ḥanīfah, Al-Shāfi 'ī, and Mālik, in which each of them said that for which we do not know of any Muslim saying it before them. Be astonished by this.

Then they say, "We only say this when the statement becomes widespread among the people, and it is not reported that any of the scholars rejected it. At that point, we say it is $ijm\bar{a}$ because, as mentioned earlier, they are silent about rejecting it. This is similar to what we say regarding the followers of the Shāfi i madhab, the Mālikī madhab, or the Ḥanafī madhab, even if it is not specifically reported from any one of them. Likewise, we say this about the inhabitants of regions predominantly influenced by Shubuhāt, the Rāfiḍah, the Muʿtazilah, the Khawārij, or adherents of the Mālikī, Shāfiʿī, or Hanafi madhab, even if it is not specifically reported from every individual in those regions."

We said to them: You have not escaped the implications of your claim, which is already riddled with falsehood. In addition to the falsehood

¹⁸³ Al-Muwatta ²/₈₆₄ | Sunan Al-Dāraqutnī 3/106-107 | Al-Musannaf by Ibn Abī Shaybah 5/406-407

of your assertion regarding consensus, you have added two extra lies that were unnecessary.

The first of these is your claim that you assert this when the opinion of a group of the Companions or those after them becomes widespread. Stop here for a moment: How did you ascertain that this opinion became widespread? And how are you certain that there remained no individual, whether among humans or *jinn*, who was unaware of it? And how can you claim that there was no scholar in the East or the West who had not come across this opinion? This is another absurdity and a disgraceful statement, one that only a fabricator would dare to assert, as if trying to obscure the clarity of the sun in defense of his blind adherence. He supports his weak argument, only to regret it when regret will no longer avail him

The other lie is your claim that it (the claimed widespread view) was not denied. Even if it would be established that they all knew it, from where do you get it from that they did not reject it and that all of them accepted it? This is another disaster. And we find that they would know what they reject and yet remain silent about rejecting certain matters.

Muslim Ibn Shihāb narrated from Ubayd Allāh ibn 'Abdullah Ibn Mas'ūd, that he and Zufar Ibn Aws Ibn Al-Ḥadathān came to Ibn 'Abbās, and Ibn 'Abbās informed both of them of his view regarding the falsehood of 'awl and his disagreement with 'Umar Ibn Al-Khaṭṭāb on that matter. Zufar said to him, "What prevented you, O Ibn 'Abbās, from suggesting this opinion to him?" He said, "I feared him." 184

Ṭāwūs narrated that Abū Ayyūb Al-Anṣāri used to pray two *rak'ahs* after the *'aṣr* prayer before the *khilāfah* of 'Umar. But when 'Umar became *khalīfah*, he stopped them. Then when 'Umar died, he resumed them. It was said to him, "What is this?" He said, "'Umar used to beat people for those two *rak'ahs*." 185

Ma'mar narrated, "Hishām Ibn 'Urwah narrated from his father that Yaḥyā Ibn 'Abd al-Raḥmān Ibn Ḥāṭib brought a black slave woman, who had belonged to Ḥāṭib, to 'Umar Ibn al-Khaṭṭāb and said, 'She has attained freedom, but she committed adultery after being married.' So 'Umar summoned her and asked her about that. She said, 'Yes, with Marghūsh for two *dirhams*,' and at that time, while she was mentioning it, she saw no harm

Sunan sa 10 1011 Manşur 30, 1/44

¹⁸⁴ Sunan Sa'īd Ibn Mansūr 36, 1/44

¹⁸⁵ Al-Musannaf by 'Abd al-Razzāq 3977, 2/433

in it. So 'Umar said to 'Alī, 'Abd al-Rahmān, and 'Uthmān, 'Give me your opinion.' 'Alī and 'Abd al-Raḥmān said, 'We think she should be stoned.' 'Umar then said to 'Uthman, 'Give your opinion.' He said, 'Your two brothers have already given you their opinion.' 'Umar said, 'I insist that you give me your opinion.' He said, 'I see that the *hadd* is only for one who knows its severity, and she appears to be lighthearted about it, as if she sees no harm in it.' 'Umar said, 'You have spoken the truth. By the One in whose hand is my soul, the punishment is only for one who knows it.' So 'Umar flogged her one hundred lashes and exiled her for a year."186

Ibn Jurayj said, "Hishām Ibn 'Urwah informed me from his father that Yaḥyā Ibn 'Abd al-Raḥmān Ibn Ḥāṭib told him, 'Abd Al-Raḥmān Ibn Hātib passed away and freed those of his slaves who had prayed and fasted. He had a Nubian female slave who had prayed and fasted but was non-Arabic speaking and did not comprehend (the religion). He was startled to find her pregnant, and she was a previously married woman. He went to 'Umar in a state of panic and informed him. 'Umar said to him, 'You are the man who brings no good,' which further caused fear in him. 'Umar then sent for her and asked her, 'Are you pregnant?' She said, 'Yes, with Marghūsh for two dirhams,' and she openly admitted it without concealing anything. Present with 'Umar were 'Alī, 'Uthmān, and 'Abd al-Raḥmān Ibn 'Awf. 'Umar said, 'Give me your opinions.' 'Uthmān, who was sitting, then lied down. 'Alī and 'Abd al-Raḥmān said, 'The hadd is established against her.' 'Umar then said to 'Uthman, 'Give me your opinion.' 'Uthman said, 'Your two brothers have already given you their opinions.' 'Umar insisted, 'Give me your opinion.' 'Uthman said, 'I see that she is openly admitting it as if she does not understand it, and the *hadd* is only for those who understand it.' So 'Umar ordered that she be flogged one hundred lashes and then exiled her. Then 'Umar said: 'She has spoken the truth. By the One in whose hand is my soul, the punishment is only for those who understand it."187

This is Ibn 'Abbas informing us that fear prevented him from opposing 'Umar in what Ibn 'Abbas was certain was the truth, to the point that he called for a *mubāhalah* at the Black Stone.

¹⁸⁶ Al-Musannaf by 'Abd al-Razzāq 13645, 7/404

¹⁸⁷ Al-Musannaf by 'Abd al-Razzāq 13644, 7/403



And here is Abū Ayyūb, a man who was a companion of the Messenger of Allāh sclaiming that he opposed 'Umar in beating him regarding the prayer after 'aṣr, after he beat him.

And here is 'Uthmān, who remained silent despite seeing something he disapproved of, something extremely disgraceful and significant—namely, the spilling of forbidden blood without an obligatory reason. 'Umar asked him, but he persisted in his silence until 'Umar even insisted on his own opinion.

A person may remain silent because the truth is not clear to him, or he may remain silent in agreement, but then later the truth becomes clear to him or he has another perspective afterwards and then reject what he had previously said and retract it, as 'Alī did regarding the selling of the *umm ulwalad* and in the matter of *takhyīr* after initially agreeing with 'Umar on both issues. Or someone might reject something, but their opposition may not have reached us, while others at the farthest ends of the east or west, or the farthest right or the farthest Armenia, are aware of it.

As for your analogy of the followers of the madhab of al-Shāfi'ī, Mālik, and Abū Ḥanīfah, with the lands in which a saying becomes dominant, this is the greatest hujjah against you because no two differ that the majority of those that believe in the (adherence of a) madhab of a man of those you mentioned, (the followers) did not ever cease to oppose their $im\bar{a}m$ in one issue, two issues and more issues.

And likewise, the aforementioned regions have never ceased to have those who oppose the dominant *madhab* in those areas. And Mālik's *madhab* predominated in Andalus and Africa, but there have always been groups of scholars who opposed him completely, they are those that adhere to *ḥadīth*, the *zāhirī madhab*, or the Shāfi'ī *madhab*. This is something observable at all times. And also, although Islām has dominated the regions it has prevailed in—and all praise is for Allāh—there are still many Jews, Christians, and atheists among them. So, the falsehood in their analogy is clearly evident, and what they disguised to support their claim has turned out to be invalid.

And it is established with this, that even if a saying spreads and all scholars know it, it is verily possible that the majority or some of them opposed it. And then 'Umar (as mentioned before) has lashed the woman whom 'Umar did not see stoning obligatory on due to her ignorance, while she was a married fornicator, he lashed her one hundred times and exiled her

for a year, in the company of 'Alī, 'Abd al-Rahmān, 'Uthmān, and they did not reject that. If this is according to them $ijm\bar{a}$, then let them say it, and there is not among our present opponents anyone that says by that. And if their silence would not be agreement, or being pleased, then let them abandon this false and destructive method for the one that clings unto it must choose one of the two options, which involves talā'ub with Allāh's religion.

We have shown them their silence, may Allah be pleased with what they said, so who is the *jāhil* that objects to this? The matter would be as we said even if it would be established that they knew about all those views, then how can it be when it will ever be established at all in any time that they would all know it based on what we clarified before.

If someone says, "If the matter is how you said it, then from where do you affirm certainty of ikhtilāf in it, even if it did not reach you, why do you not reject that against yourselves just as you reject it against us when we say, '*ijmā* '!'"

We say this is because of two decisive necessary certain evidences: One of them, is that the asl among them people is the existence of ikhtilāf in their $ra \, \bar{i}$, based on what we clarified that *ikhtilāf* is their intentions and their natures. And the second is that Allah judged that, as he said, "And they will never cease to differ (have ikhtilāf). Except whom your Lord has given mercy, and for that He created them" [11:118-119]. So it is established that the asl is ikhtilāf which Allāh said that we do not cease to be upon it, which he created us for, except the lesser whom he has specified.

And the third certain decisive evidence which no one is allowed to oppose is that, that which you claim $ijm\bar{a}$ in by false zann as we preceded, it does not cease by necessity to be from one of two ways with no third for them at all: Either you claim it in a matter that is already is explicitly found in the text of the Our an or the established and authenticated Sunnah, in which case it does not matter whether there is $ijm\bar{a}$ or $ikhtil\bar{a}f$ on it; the objective is to follow the text in that matter, whether people agree or disagree, and there is no meaning at that point to use as evidence a claimed ijmā'. The hujjah is established by the nass. So there is no need to claim certainty on false assumptions in claiming *ijmā* 'at all.

Or you claim it in a matter that is not in the nass of the Qur'an nor authentic, established Sunnah, is not only not in them which is enough falsehood but also directly opposes what is in the 'umūm or the zāhir from the Qur'ān and Sunnah, in order to validate with that your false claim of $ijm\bar{a}$. This is a major sin and an intentional attempt to reject certainty by assumptions, and to oppose Allāh Almighty and His Messenger \cong with a false, fabricated claim. This is not permissible.

As these are the types, then we are certain and affirm that there cannot cease to be an affirmed $ikhtil\bar{a}f$ in what you claimed is an $ijm\bar{a}$, because Allāh has protected the ummah of his Prophet from $ijm\bar{a}$ on falsehood and misguidance, which is on anything other than the Qurʿān and the ruling of the Prophet and opposition to them. It was not enough for you that you lied against the entire ummah, till you even attributed a lie against them that they have an $ijm\bar{a}$ on a mistake in other than the Qurʿān and the affirmed Sunnah. This is one of the grave sins, and we seek refuge in Allāh the Most Exalted from it.

And there is no third category at all, due to the certain evidences we mentioned that it is impossible for there to arise any new issue (in any generation) for which there is no ruling mentioned for in the Qurʿān and Sunnah, either by its wording covered by general rulings from the Qurʿān and Sunnah or mentioned by them by its wording.

And know that the audacity of these people and what they dared about the meaning of $ijm\bar{a}$, in places where $ikhtil\bar{a}f$ is found or in places where (the $ikhtil\bar{a}f$) does not reach us, but that it is possible or guaranteed that it does exist, these sayings are in reality the opposition to $ijm\bar{a}$.

There is never narrated about any companion, nor a $t\bar{a}bi$ \bar{i} having certainty with a claim of $ijm\bar{a}$, till those people came who made speaking about the religion of Allāh Almighty a struggle and vying, and they sought leadership over their followers, and this alone is a disgrace.

And also there has been established certain $ijm\bar{a}$ from the Muslims that it is not allowed for anyone to affirm certainty by his *zann*, this is another $ijm\bar{a}$ they have opposed in this issue.

Mis'ar Ibn Kidām narrated from Ma'n Ibn 'Abd al-Raḥmān Ibn 'Abdullah Ibn Mas'ūd that a man said to Ibn Mas'ūd, "Advise me with comprehensive words." So Ibn Mas'ūd said to him, "Worship Allāh and do not associate anything with Him, and move with the Qur'ān wherever it moves. And whoever brings you the truth, accept it from him, even if he is

distant and disliked. And whoever brings you falsehood, reject it, even if he is close and beloved."188

These are the comprehensive principles of truth: following the Qur'ān, and in it, is following the bayān of the Prophet #, and taking the truth from whoever brings it, even if there is no good in him and even if he is someone who should be hated and kept away from, and not to make taglīd of the mistake of a virtuous person, even if he is loved and must be venerated.

Jubayla Ibn 'Āmir Ibn Maţar narrated, "Ḥudhaifah said to me in a conversation, 'Stick to what you are upon today, for it is the clear path. How will you be, O 'Āmir ibn Matar, when people take a different path? Which path will you follow?' 'Āmir said: I replied to him, 'With the Qur'ān, I live with the Qur'an and I die with it.' Hudhaifah said to him, 'Then you are indeed [on the right path]."189

O Allāh, I say as 'Āmir said: I will, by Allāh, live with the Qur'ān, adhering to it, and I will die, by the will of Allah, adhering to it. I do not care who follows a path other than the path of the Qur'an, even if they are all the people on the earth except me. Hudhaifah ordered to abandon the path of the people and ordered to follow the path of the Qur'ān if the people oppose it.

'Ubaida al-Salmānī narrated, "'Umar Ibn al-Khaṭṭāb and 'Alī both freed the *ummuhāt al-awlād*. 'Alī said, 'So 'Umar ruled in accordance with that until he passed away. Then 'Uthman took over him and ruled accordingly until he passed away. When I took over, I saw that I should make enslave them (to sell them)."190

This is 'Alī Ibn Abī Tālib, may Allāh be pleased with him, who did not see the ruling of 'Umar and then the ruling of 'Uthman, which was wellknown, widespread, and publicized. And those who agreed with them on it did so by ijmā'. Rather, he hastened to oppose it because he saw his own ijtihād as correct in opposing it. By the life of Allāh, way less than this, in degrees, suffices for these criminals to shamelessly claim *ijmā* on issues.

Al-Sha'bī narrated, "'Aqīl Ibn Abī Ṭālib went into iḥrām in two places (spring, well). 'Umar said to him, 'You have contradicted the people.'

¹⁸⁸ Al-Musannaf by Ibn Abī Shaybah 30299, 6/155 | Al-Mu'jam Al-Kabīr 8537, 9/106

¹⁸⁹ Al-Muşannaf by Ibn Abī Shaybah 30298, 6/155 | 37426, 7/485 | Al-Mustadrak by Al-Hākim 4/505

¹⁹⁰ Sunan Sa'īd Ibn Mansūr 2046, 2/86



'Alī said to him, 'Leave us alone, for no one has the right to teach us (against) the Sunnah.' 'Umar said to him, 'You are right.'" 191

This is 'Alī and 'Aqīl, they did not reject that the people did opposingly, and 'Umar retracted his statement to that, as what he attributed to the people was not a Sunnah that must be followed, but the Sunnah is contrary to it, so the disagreement of the majority of the people to the Sunnah does not make the Sunnah rejected.

'Aṭā' Ibn Abī Rabāḥ, he said, "I said to Ibn 'Abbās, 'The people do not accept my opinion or yours, and if I and you were to die, they would not divide our inheritance according to what we say.' Ibn 'Abbās said, 'Let them gather, and we will place our hands on the corner Ka'bah, then make *mubāhalah*, and make the curse of Allāh upon the liars. Allāh has not decreed what they say.'"¹⁹²

This is Ibn 'Abbās with the most authentic $isn\bar{a}d$ from him, he did not care about the people and also not what becomes widespread with them and the ruling of it spreads between them, as that is an opposition to the ruling of Allāh. Those who do not care about lying about $ijm\bar{a}$ 'claim it about matters like these.

'Abdullah Ibn Abī Zayd narrated, "Ibn 'Abbās said regarding the words of Allāh, the Exalted, 'O you who have believed, let those whom your right hands possess ask your permission' [24:58] (Ibn 'Abbās said): 'Most people did not believe in this verse, and I indeed ordered this one to ask permission from me—meaning a servant girl of his.'" This is just as the one before.

Sa'īd Al-Maqbūrī narrated, "'Ubaid Ibn Juraij said to 'Abdullah ibn 'Umar, 'I see you doing four things that are not done by your companions.' Ibn 'Umar replied, 'What are they, O Ibn Juraij?' He said, 'I see that you do not touch except the two Yemeni corners of the Ka'bah (while performing the <code>Tawāf</code>); I see you wearing Sabtiyya shoes; I see you dyeing your hair with <code>sufra</code>; and I see that when you are in Mecca, people enter the state of <code>iḥrām</code>

 192 Sunan Sa'īd Ibn Manṣūr 37, 1/33 | Al-Muṣannaf by 'Abd al-Razzāq 19024, 10/255

 $^{^{191}}$ Al-Muṣannaf by Ibn Abī Shaybah 12860, 3/142 | Musnad Al-Shāfi'ī 118 | Sunan Al-Bayhaqī 5/59 | Ma'rifah Al-Sunan 4/25

 $^{^{193}}$ Al-Muşannaf by Ibn Abī Shaybah 17611, 4/43 | Sunan Abi Dāwūd 5191 | Sunan Saʾīd Ibn Mansūr 1614, 6/453

upon sighting the crescent (on the first day of dhū al- hijjah), whereas you do not assume *ihrām* until the Day of *Tarwiya* (eighth *dhū al-hijjah*).' 'Abdullah ibn 'Umar said to him, 'As for the corners of the Ka'bah, I have not seen Allāh's Messenger stouching except the two Yemeni corners. As for the Sabtiyya shoes, I saw Allāh's Messenger wearing leather shoes without hair, and he used to perform ablution while wearing them. So I like to wear such shoes. As for dyeing with *sufra*, I saw Allāh's Messenger dyeing his hair with it, so I like to dye mine with it. As for the crescent of dhū al-hijjah, I have not seen Allāh's Messenger # enter ihrām until his she-camel set out (on the eighth of $dh\bar{u}$ al-hijjah).""194

This is Ibn 'Umar with the most authentic *isnād*, he did not because of an opposition from all of the companions reject following the Prophet # nor did he reject it when Ibn Juraij told him that all companions opposed him. So it is established that he did not see the companions to be followed in that which he is himself alone in following the Prophet . This is the truth no one is allowed to intend opposition towards.

Then Abū Hanīfah said, "That what comes from Allāh must be accepted in any possible way. And what comes from the Messenger of Allāh , then we hear and obey and what comes from the companions, we choose from their sayings but do not depart from them; and whatever comes from the *tābi* '*īn*, they are men and we are men." ¹⁹⁵

He did not reject his own disagreement with the tābi 'īn; rather, he did not see the departure from the sayings of the companions out of veneration for them.

And Mālik issued a fatwā on the right of preemption for fruits and says after his fatwā, "It is something I have not heard nor has it reached me that anyone said it."196

So Mālik did not see the saying for which he has not heard from anyone an opposition to as $ijm\bar{a}$ just as those who say it which has no meaning to it.

And Al-Shāfi'ī says in his Al-Risālah Al-Misriyyah, "That which there is not known *ikhtilāf* on is not an *ijmā* '."

¹⁹⁴ Sahīh Al-Bukhārī 5851 | Sahīh Muslim 1187

¹⁹⁵ Al-Musawwadah pg. 337 | Al-Insāf Ibn Al-Jawzī pg. 135

¹⁹⁶ Al-Muwatta ' 2/714

Abdan Lillah Ḥanbal said, "I heard my father (Aḥmad) say, 'That in which a man claims $ijm\bar{a}$ ' is a lie. Whoever claims $ijm\bar{a}$ ' is a liar. Maybe the people differed, what makes him know that? And it had not come to his attention. So let him say, 'I do not know difference among the people rather than making a claim like Bishr Al-Marīsī and Al-Aṣam. But let him say, 'I do not know a difference,' or 'It has not reached me.'"

Aḥmad spoke the truth; may Allāh reward him well. And what an evil example is Bishr Ibn ʿAtāb Al-Marīsī and ʿAbd al-Raḥmān Ibn Kaysān Al-Asam.

By my life, they are among the first to have advanced this claim, and these two individuals are the ones whose statements are fled away from.

Abū Muḥammad —» Yūsuf ibn ʿAbdullah al-Nimrī —» ʿAbdullah ibn Muḥammad —» Al-Ḥasan ibn Salmūn —» ʿAbdullah ibn ʿAlī al-Jārūd —» Isḥāq Ibn Manṣūr said, "I heard Isḥāq ibn Ibrāhīm, who is the son of Rahuyah, and he mentioned to him the statement of Aḥmad Ibn Ḥanbal on a matter. Isḥāq said, 'He spoke well. I thought that no one would follow me on this."

Ishāq did not reject the saying because he assumed no one followed him in that as he saw that as the truth in what he said.

So those companions, then the *tābi ʿīn*, then Abū Ḥanīfah, Mālik, Al-Shāfi ʾī, Aḥmad, Isḥāq, Dāwūd, all of them oblige saying where the *ijtihād* leads that it is the truth and even if no one is known to say it. Then who do these people cling unto? And instead they follow Al-Marīsī and Al-Aṣam as Ahmad said.

And if a saying of a group from the companions or $t\bar{a}bi$ $\bar{i}n$ spreading without $ikthil\bar{a}f$ known from them would be $ijm\bar{a}$. Then there is not on the world anyone more against $ijm\bar{a}$ than those that make $taql\bar{\imath}d$ of Mālik, Al-Shāfi'ī, Abū Ḥanīfah in their religion. We have mentioned hundreds of issues in which there is not a single issue except that it is not known that anyone before them said what one of those three said. Then how evil is that what they call $ijm\bar{a}$ and those that make $taql\bar{\imath}d$ of them in their religion.

Muḥammad Ibn Jarīr Al-Ṭabarī mentioned that he found from Al-Shāfi'ī four hundred issues in which he opposed *ijmā* and the same saying applies, letter by letter, about the sayings of Ibn Abī Laylah, Sufyān, Al-Awzā Ā, Zufar, Abū Yūsuf, Muḥammad Ibn Al-Ḥasan, Al-Ḥasan Ibn

 $^{^{197}}$ Al-Musawwadah pg. 315 | Al-Baḥr Al-Muḥīṭ by Al-Zarkashi 3/489

Ziyādah, Ashhab, Ibn Al-Mājishūn, Al-Muzanī, Abū Thawr, Ahmad, Ishāq, Dawud, Muhammad Ibn Jarir. There is not among them anyone except that it is established from them, sayings in their futyā which no one from the scholars ever said it before they said it. And for most of those sayings, there is no doubt other than it was well known and spread.

Then let them know that any fatwā given by a tābi 'ī, for any issue in which there is not narrated from a Companion in that matter any statement, and that $t\bar{a}bi$ \bar{i} said a saying, and it is not known that anyone said it. Then the tābi 'ūn based on this khabīth saying are all in opposition to the ijmā 'or most of them. And the one opposing $ijm\bar{a}$ according to those $juhh\bar{a}l$ is a $k\bar{a}fir$. So the $t\bar{a}bi'\bar{u}n$ on this saying are $kuff\bar{a}r$, and we seek refuge in Allah the Most Great from every saying that leads to this.

And know that whoever claims and asserts the claim of $ijm\bar{a}$ in such a matter is among the most ignorant of people regarding the sayings of the people and their differences. And Allah is sufficient for us, and He is the best disposer of affairs. So, the lie of the one who claims that if a saying spreads or does not spread and no difference of opinion is not known that it is an $ijm\bar{a}$ is evident as the sun.

And by Allāh's guidance, the most astonishing thing in the world is that they claim $ijm\bar{a}$ in something like this, then they openly oppose the real, certain, decisive and definite ijmā', which is that there is no doubt among any of ahl ul-'ilm that in the generation of the Companions, may Allah be pleased with them, no one ever came to the saying of a Companion greater than him and then took all of it, took it and rejected by taking from it the nuṣūṣ of the Qurʿān and the words of the Messenger of Allāh ## and then tried to support that saying it by any means possible, whether by using the truth or falsehood or contradiction. Then there is no doubt among any of ahl ul-'ilm that in the generation of the tābi 'īn, no one ever came to the saying of a $t\bar{a}bi$ \bar{i} greater than him or to the opinion of a Companion and took everything from it as we mentioned. Then there is no disagreement among any of ahl ul-*'ilm* that in the third century, no one ever came to the saying of a $t\bar{a}bi'\bar{t}$ or a Companion and took all of it. This is the certain, definite, decisive ijmā' in three consecutive centuries. Then, these are the praiseworthy centuries that the muqallidun of the sayings of Abu Ḥanīfah only, or the sayings of Mālik only, or the sayings of Al-Shāfi'ī only, have opposed. This is an innovated action, opposing the true $ijm\bar{a}$.

So be astonished, and it is truly a place of wonder that they openly oppose the certain, decisive $ijm\bar{a}$ openly and then claim $ijm\bar{a}$ where there is no $ijm\bar{a}$ at all. And we seek refuge in the Allāh from misguidance.

We will mention here now by the will of Allāh briefly which indicates their large amount of contradiction in this chapter, because if we would gather all of their contradictions it will be larger than this book of ours, yes, they have transgressed their false method in this chapter, to the point they make taqlid on the saying of a companion which other companions opposed in their saying, or when it is established that that companion retracted his saying, then they remain taking from the previous statement and claim $ijm\bar{a}$ without shame.

Like Mālikīs prohibit marriage forever for those who marry during the 'iddah of a woman, even if they were unaware of it¹⁹⁸, based on what 'Umar said on the matter¹⁹⁹.

But, 'Alī opposed 'Umar's view, and it is also narrated that 'Umar himself changed his stance on this issue²⁰⁰.

And the Mālikiyyah hold the view that if the husband of a wife is lost, she must wait four years, and if he is not found, the $Nik\bar{a}h$ ends all based on the saying of 'Umar²⁰¹.

While on the other hand, 'Alī, Ibn Mas'ūd, Ibrāhīm al-Nakha'ī, Abū Qilābah, al-Shā'bī, Jābir Ibn Zayd, al-Ḥakam, Ḥammād, Ibn Abī Laylah, and Ibn Shubrumah all opposed this view and stated that the marriage remains valid until there is evidence of the husband's death²⁰².

And the Ḥanafiyyah hold the view of Ibn Masʿūd regarding ju'l alābiq (offering a reward for the one who finds an escaped slave), the maximum reward can be forty Dirhams. Then, they contradict Ibn Masʿūd's saying and say that if the runaway slave is returned from a distance of three days' journey or more, the reward is forty dirhams. And if the slave is returned from a shorter distance, there is no reward. And if the slave is returned from the farthest part of the city, the reward is given according to the difficulty and effort involved. And that this is if the value of the slave is greater than the

¹⁹⁸ Al-Jāmi Li Masā il Al-Mudawwanah 10/602

¹⁹⁹ Al-Muşannaf by 'Abd Al-Razzāq 10544, 6/211

²⁰⁰ Al-Muşannaf by 'Abd Al-Razzāq 10533, 10534, 6/208-209

²⁰¹ Al-Jāmi' Li Masā'il Al-Mudawwanah 10/609

²⁰² Al-Musannaf by 'Abd Al-Razzāq 12329-12335, 7/90-91

reward. And if the value of the slave is equal to or less than the reward is reduced by one dirham. And all conditions which no one before has uttered before them and are an opposition to the saying of Ibn Mas'ūd, while other companions have opposed him like 'Alī²⁰³.

And the Hanafiyyah hold the view of 'Umar and 'Uthman regarding that if a sick husband divorces his wife thrice and he passes away during her 'iddah, that she is entitled to inherit from him²⁰⁴.

While this is opposed by, Ibn 'Abbas, Ibn Al-Zubair, 'Alī, and Al-Hārith Al-'Uklī. It is narrated from the tarīq of Abū 'Ubayd —» Abū Ahmad Al-Zubayri —» Sufyan Al-Thawrī —» Layth Ibn Abī Sulaym —» Ṭāwus, "Ibn 'Abbas said about the one that divorces his wife thrice in his illness before he had intercourse, 'There is no inheritance for her."

And the Mālikiyyah and the Shāfi iyyah directly oppose 'Umar on the *divah* of the eyes of an animal being one fourth of its value²⁰⁵.

While the Ḥanafiyyah the Ḥanābilah make taqlīd of 'Umar on the issue²⁰⁶

And the Mālikiyyah, Ḥanafiyyah, and the Ḥanābilah all make taqlīd on the narrations of 'Umar lashing the one consuming *khamr* eighty times²⁰⁷.

While they oppose the other actions of 'Umar in this and then the actions of 'Uthman, 'Alī, and Abū Bakr, Al-Hasan Ibn 'Alī, 'Abdullah Ibn Ja far and all the companions in their presence²⁰⁸.

And the *taglīd* of the Mālikiyyah and the Ḥanafiyyah, of 'Ā'isha on her rejecting the delaying of the sale of an item to a later date when its value is less than what it was before. And Al-Shāfi'ī opposed her in that and Zayd Ibn Argam had also opposed her²⁰⁹.

²⁰³ Ikhtilāf Al-'Ulamā' Al-Ṭaḥāwī 4/351 | Al-Badā'i' Al-Ṣanā'i' 6/205 | Al-Lubāb Fī Sharh Al-Kitāb 2/217

 $^{^{204}}$ Al-Muşannaf by Ibn Abī Shaybah 1903
1 $4/177\ |\ 19027,\ 4/176\ |\ Sharḥ$ Mukhtaşar by Al-Ţaḥāwī 5/119

²⁰⁵ Al-Muşannaf by 'Abd Al-Razzāq 19669, 9/281 | Al-Muwaṭṭa' 2/295, 2180 | Al-Mudawwanah 4/181 | Al-Umm 256 | Al-Awsat 13/414

²⁰⁶ Mukhtasar Ikhtilāf Al-'Ulamā' 5/211 | Al-Awsat 13/414

²⁰⁷ Al-Mawsūʻah Al-Fighiyah 15/254

²⁰⁸ Sunan Al-Tirmidhī 1443 | Al-Muşannaf by 'Abd Al-Razzāq 1354, 7/377 | Sharh Maʿānī Al-Āthār 4895, 3/153 | Musnad Ahmad 1084, 3/328 | 1229, 2/395

²⁰⁹ Al-Istidhkār 6/271

And their *taqlīd* of 'Umar on the time limit of one year for *al-'innīn* (the one unable to have intercourse for inability to get an erection), that he gets separated from the wife after that period, while Mujāhid and al-Ḥakam Ibn 'Utaybah opposed 'Umar in that . It is narrated from the *ṭarīq* of Abū 'Ubayd —» Yazīd Ibn 'Uyaynah Ibn 'Abd Al-Raḥmān —» his father —» Samurah Ibn Jundub, "Mu'āwiyah did not set a time of one year for a separation due to '*innīn*."

And likewise Al-Mughīrah ibn Shu'bah did not set a time limit.

And the Hanafiyyah and the Mālikiyyah make *taqlīd* of 'Umar on the adjustment of paying the *diyah* with gold, silver, cattle, cows, and sheep. While al-Shāfi'ī, The Hanafiyyah, and the Mālikiyyah opposed 'Umar's adjustment of paying the *diyah* with cows and cattle²¹⁰.

And the *taqlīd* of the Mālikiyyah and the Ḥanafiyyah on what is narrated from Abū Bakr, 'Umar and 'Uthmān about *ḥiyāzah* of gifts, while Ibn Mas'ūd had opposed them and opposition to it is narrated from Abū Bakr.

And the $taql\bar{\iota}d$ of the Mālikiyyah and the Shāfi'iyyah of 'Umar's view on ending a marriage if a wife has certain deficiencies that nullify the marriage²¹¹, while they oppose 'Umar and many other companions on the same issue, such as returning the Ṣadāq to her $wal\bar{\iota}^{212}$.

They do not end the marriage if she is blind, while 'Umar did end it for that deficiency. They also specify from this that the marriage does not end if the deficiency is found before intercourse, while 'Umar never specified that. And 'Alī opposed all of them²¹³.

And the opposition of the Mālikiyyah and the Shāfi 'iyyah to 'Umar and Ibn Mas' ūd on the issue of acquiring a *maḥram* relative as a slave²¹⁴, that the *maḥram* is free the instant he is enslaved, while al-Mālikiyyah and al-Shāfi 'iyyah specify certain *maḥārim* exempt from this ruling so they remain

 211 Sunan Sa´īd Ibn Manṣūr 818, 819, 1/212 | Al-Muṣannaf by ʿAbd Al-Razzāq 10679, 6/244

²¹⁰ Bidāyah al-Mujtahid Wa Nihāyah Al-Muqtaşid 4/194

 $^{^{212}}$ Al-Fawākih al-Dawānī 'Alā Risālah ibn Abī Zayd 2/37 Al-Khilāfiyāt By Al-Bayhaqī 6/126

 $^{^{213}}$ Sunan Sa´īd Ibn Manṣūr 820, 821, 1/212-213 | Sunan Al-Dāraquṭnī 3675, 4/399

 $^{^{214}}$ Shar
ḥ Al-Mushkil 13/445-446 | Al-Muṣannaf by ʿAbd Al-Razzāq 16860, 16861, 9/184

enslaved as a *mahram*. While there is no known opposition to 'Umar and Ibn Mas'ūd from the companions on this issue.

And the opposition of the Mālikiyyah towards Al-Zubair, Qudāmah Ibn Maz'ūn, Abū Al-Dardā', and Ibn Mas'ūd on the permissibility of marrying the sick, and there is not known any opposition to them on this matter²¹⁵.

And they opposed 'Umar when he increased the debt by two times in the case of Al-Muzanī's camel which Ḥāṭibs slave stole²¹⁶. Al-Ḥanafiyyah, Al-Mālikiyyah, and al-Shāfi iyyah oppose 'Umar's stance that there should be only one camel obliging for molars, collar-bones, and ribs for blood money.

And the Mālikiyyah oppose the real $ijm\bar{a}$, along with the Messenger of Allah, to allow the distribution of the wealth that the Prophet had allocated to the conquerors of Khaybar, giving it to the Jews under the condition that they work on it with their wealth and labor, allowing them to stay as long as Allāh willed, and expelling them whenever they wished. This arrangement continued for four years until the death of the Messenger of Allāh, and then during the khilāfah of Abū Bakr until the last year of 'Umar's caliphate.

Jābir Ibn 'Abdullah, narrated, "We sacrificed a camel with the Messenger of Allāh son the day of Hudaybiyyah, seven people sharing in one camel and seven people sharing in one cow."217

Jābir also narrated, "On that day, we slaughtered seventy camels, with every seven of us sharing in a camel."218

The Mālikiyyah oppose this *ijmā*, for which there is no disagreement for.

And the Mālikiyyah opposed the actions of all companions, that were present with 'Umar when he did sujūd during the recitation of the verse, "When the sky is split" [84:1]²¹⁹. For which there is no opposition for known.

²¹⁵ Al-Hāwī Al-Kabīr 8/279

²¹⁶ Muwatta' Mālik 2/748, 38

²¹⁷ Sharh Mushkil Al-Āthār 2592, 7/13

²¹⁸ Sahīh muslim 1318

²¹⁹ Al-Musannaf by Ibn Abī Shaybah 5884, 3/340 | Sharh Mushkil Al-Āthār 3624, 9/258 | Al-Mu'jam Al-Kabīr 8729, 9/158



And the Mālikiyyah oppose the $suj\bar{u}d$ of the companions with 'Umar when he recited the prostration verse while delivering a sermon on the day of jumu 'ah, so he descended from the pulpit, prostrated, and they prostrated with him, then he returned to his sermon ²²⁰. While there is not known any opposition from the companions to that.

And the Mālikiyyah abandoned the $ijm\bar{a}$ of the companions when they prayed with the Messenger of Allāh \cong the last prayer he led with the people.

And in this manner, there is so many issues that exceed hundreds, we have gathered them and all praise is for Allāh in our book, "Al-Iʿrāb ʿAn Al-Ḥīrah Wal-Iltibās Al-Mawjūdīn Fī Madhāhib Ahl Al-Raʿī Wal-Qiyās."

As for the statement of those among them who say that this happens if it is from the actions of the $Im\bar{a}m$, they are a people who are the most abandoning of this, while their statement is devoid of evidence.

Among the examples they mention is their argument for flogging the witness of adultery when there are only one, two, or three witnesses who do not complete the requirement of four witnesses, using as evidence the incident where 'Umar flogged Abū Bakrah, Nāfi', and Shibl Ibn Ma'bad in the presence of the Companions, then they do not have shame and do not care of opposing 'Umar in that exact occasion in the presence of the companions on that exact place when Abū Bakrah's flogging was completed, he stood up and said, "I testify that Al-Mughīrah committed adultery." 'Umar wanted to flog him again, but 'Alī said to him, "If you flog him again, then stone Al-Mughīrah," so 'Umar left him alone 221. And they all consider flogging him a second time as he said it again after his flogging was completed. Is there no shame, no fear of Allāh? And has there ever been heard something more obscene than this action and more explicit than this? And there are many other examples like this for them.

As for their claim and statement about it being widespread, it is very strange. They are merely people whose predecessors—such as Abū Ḥanīfah, Abū Yūsuf, Muḥammad Ibn Al-Ḥasan, ʿĪsā Ibn Abān, and the likes of them, and Mālik, Ibn Wahb, Saḥnun, Ismā ʿīl, and the likes of them, and Al-Shāfi ʿī,

²²⁰ Şahīh Al-Bukhārī 1077

²²¹ Sahīh Al-Bukhārī 3/170

Al-Musannaf by Ibn Abī Shaybah 28824, 5/545

Al-Musannaf by 'Abd Al-Razzāq 13566, 7/384-385

Al-Muzanī, Al-Rabī', Ibn Shurayh and the likes of them—relied on what the early ones among them said, based on mursal narrations or a narrations from a Companion that at most is not authentic, or even if it is authentic, there are companions that opposed him. Then they spread it among their followers and the followers accept it and study it exchange it among themselves, disseminating them among the few who learned from them. Then, they circulated them in their discussions, gatherings, writings, and debates, whether among themselves or with their opponents, and then they claim it is widespread, well-known, and as *mutawātir*, when in reality, they are from the beginning false or were initially insignificant. And even if they would be authentic, they were never known to be widely spread. This is the nature of what they claim to be widespread and mutawātir—like the narration attributed to Mu'ādh regarding giving judgments by using his ra'ī. No one from the generation of the Companions ever knew of it, nor did any of them ever mention it, whether through an authentic or weak narration, connected or disconnected. Nor did any of the tābi 'ūn ever know of it or mention it in any narration, whether authentic or weak, connected or disconnected, until it was mentioned by Abū 'Awn Muḥammad Ibn 'Ubaydullah alone. He only took it from a majhūl person that no one else knows, who took it from someone like him, according to what he claimed (that he heard it). Then only two men took it from Abū 'Awn from that what reached us only, Shu'bah and Abū Ishāq Al-Shaybānī—yet they also differed in the exact wording and meaning attributed to Abū 'Awn. When ahl ul-ra'ī found this with Shu'bah they seized upon it and spread it far and wide, east and west, almost beating drums over it, until even those who knew nothing about the words of the Messenger of Allāh se became familiar with it, and they claimed it to be mutawātir.

And Allāh is far exalted above that, for its origin is nothing but darkness, its outcome is weak, and its source arises from falsehood—a fabricated invention by one who knows not from whom, not named by anyone ever known in the generation of the Companions nor in the generation of the tābi 'īn, nor did anyone mention it except Abū 'Awn Ibn 'Ubaydullāh Al-Thaqafi alone, as we mentioned. And we have clarified the absolute weakness of this narration in the greatest of details in the chapter of *qiyās* of this book.

This is the description of the majority on what they claim to be mutawātir and widespread, rather the description of all of it. And then they



come to real well-known, widespread, and widely transmitted matters, and they oppose it without effort or burden, such as the Prophet praying while sitting with the Companions, and the Prophet leading the prayer initiated by Abū Bakr, and such as the contract for irrigating (*musāqāh*) without a specified term, and other judgments of 'Umar in increasing the debt by two times in the case of Al-Muzanī's camel which Ḥāṭib's slave stole²²² and 'Uthmān's increasing *diyah* on a killer in the Ḥaram²²³ and many more.

And in our speech in the chapter earlier, in our discourse on $ijm\bar{a}$ where we nullified the statement of those who claim that as long as no disagreement is known that it is $ijm\bar{a}$, there is the invalidation and the falsehood of their claim in this matter. And the belief in claiming $ijm\bar{a}$ in that which a large $ikhtil\bar{a}f$ is available is the most evident falsehood and most flagrantly invalid.

There is not a group among them except that they ridicule each other with this stone, meaning the opposition of a Companion for whom there is not known $ikhtil\bar{a}f$ for among the Companions . If this is $ijm\bar{a}$, and the one who opposing the $ijm\bar{a}$ according to them is a $k\bar{a}fir$, then all of them are $kuff\bar{a}r$ according to this corrupt principle, for there is not a group among them except that it has opposed a Companion in more than a hundred cases where no difference of opinion among the Companions is known, and they persisted in it, with some of them using this argument against others and invalidating them forever.

And they are also implied takfir of the upright $t\bar{a}bi$ $\bar{i}n$ in the exact same manner. There is no other way for them by necessity or to abandon their claims in this chapter of $ijm\bar{a}$, this is the most appropriate for them because it relieves them from their burden and abandon the claim of falsehood.

And one story alone already suffices for the opposition of $ijm\bar{a}$ if the hujjah is established on the one opposing it, then how when we gathered from them hundreds of issues against every single group from the Ḥanafiyyah, Mālikiyyah and Shāfi iyyah, and Allāh is the source of strength.

As for the one that said among them, "Verily the saying of a companion for whom there is not known an opposition from the companions is not an $ijm\bar{a}$, but is still a hujjah."

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²²² Muwatta' Mālik 2/748, 38

²²³ Al-Muṣannaf by Ibn Abī Shaybah 27609, 5/421

Then this returns also back to them in all cases where they opposed a companion for whom there is not known any opposition for in the exact same manner. And the response to this saying specifically will come in detail in the chapter on the falsehood of taqlīd by the will of Allāh and in him we seek aid, there is nothing worthy of worship in truth except him.

What is sufficient for the falsehood of that is that there has never come Qur'an nor Sunnah with the obligation of taglīd of any companion for whom there is not known difference of opinion for, especially if that companion opposed the Qur'an and established Sunnah whether by that it is not in the Qur'ān and Sunnah or that it opposes the text in them.

This is where we oppose them in, not that in which the wordings of the companions himself are in the Qur'an and Sunnah. And if there is no Qur'an and Sunnah that came for that then it is a false saying and a false claim, there has only come nass with following the Qur'an and the bayan of the Prophet sonly and that the religion is completed and all praise is for Alllah the lord of the worlds.



Section: Those That Say, "Ikhtilāf Of Only One Of The Companions Or Those After Them Are Not Considered *Ikhtilāf*."

Muhammad Ibn Jarīr Al-Tabarī went with the position that the difference of one person is not considered an opposition²²⁴.

And Abū Bakr Ahmad Ibn 'Alī Al-Rāzī Al-Hanafī Al-Jassās said, "Abū Hāzim 'Abd al-'Azīz Ibn 'Abd al-Hamīd Al-Qādī Al-Hanafī annulled the ruling on the inheritance of bayt ul-māl with what remained after its heirs had received their shares. And he said, 'Verily Zayd Ibn Thabit is not considered an opposition against Abū Bakr, 'Umar, 'Uthmān and 'Alī.'"225

It is said to them: What is the meaning of your saying, "He is not considered an opposition," do you reject the existence of *khilāf*? Then this is a lie rejected by necessity and witness and apparent. Or do you say that Allāh ordered you not to call it a *khilāf*, or his Messenger sordered you with that? Then this is more evil than the first because it is a lie against Allāh and his Messenger . Or do you say, "Being fewer in number by that opposition is due to lowliness." And omission of the Muslims is only due to his *fisq* or his ignorance in a manner that the existence of his saying is just like its nonexistence, and there is in this (of falsehood) as you can see, as they omit Zayd Ibn Thābit or Ibn 'Abbās or other than them from the tābi 'īn, and by my life the one that places those from the companions or the tābi 'īn or from the scholars of the Muslims in such a place, he is himself most deserving of that place. And their position does not cease to be from one of those three possibilities for which there is no fourth.

If they say, "We only say that it is a mistake and shudhūdh."

²²⁴ Kashf al-Asrār 3/362

²²⁵ Al-Fusūl Fī al-Usūl 3/301-302 | Al-Bahr Al-Muhīt 3/535

We say: We have previously clarified that everyone that opposes anyone then he has done shadh of him. And every saying that opposes the truth, is the shādh from the truth, so it is necessary that every mistake is shudhūdh from the truth and every shudhūh from the truth is a mistake and not every mistake is an opposition to the $ijm\bar{a}$. So not every shudh $\bar{u}dh$ is an opposition to $ijm\bar{a}$, nor is every truth $ijm\bar{a}$. We only speak here about your saying that it is not an opposition and that everything other than it is $ijm\bar{a}$. So their lie has become apparent and its corruptness and all praise is for Allāh.

And we find that they attempt to use as evidence narrations which are not authentic, the narration attributed to the Prophet ## that he said, "The nation of Muḥammad will never gather on misguidance. Upon you is the sawād al-a'zam (the majority of the people, for whoever strays (shadhdha), strays into the fire."

This narration is not free from Sulayman Al-Madani, Al-Musayyib Ibn Wadhih, Ḥāzim Ibn 'Aṭā' Abū Khalaf Al-A'mā, Sa'īd Ibn Jumḥān, Qaṭan Ibn Nusayr and all of them are weak²²⁶.

Al-Musayyib Ibn Ibn Wāḍiḥ narrated munkarāt, from them is that he narrated about the Prophet ## that he said, "Whoever hits his father then kill him."227 And this is unknown.

And even if that narration would be authentic then its meaning would be, "Whoever strays (shadhdha) from the truth," nothing else is allowed.

They also attempted to use as evidence the narration attributed to the Prophet # that he said, "Whoever among you loves the spaciousness of Paradise, let them adhere to the jamā'ah, for Satan is with one, and he is farther from two."228

And the narration attributed to the Prophet # that he said, "O people, honor my companions, then those who follow them, then those who follow them. Then lies will spread until a man will swear an oath before being asked to swear and testify before being asked to testify. Whoever is pleased to reach the spaciousness of Paradise must adhere to the jamā'ah, for the hand of Allāh is over the jamā'ah. A man must not be alone with a woman, for Satan is the third of them. Indeed, Satan is with one, and he is farther from two. Whoever

²²⁶ Al-Musnad Al-Musannaf Al-Mu'allal 7690, 1355, 4471

²²⁷ Al-Marāsīl by Abū Dāwūd 485

²²⁸ Sunan Al-Kubrā by Al-Nasā'ī 9219, 9220, 5/387 | Sunan Ibn Mājah 2373



is displeased by his bad deed and pleased by his good deed, he is a believer."²²⁹

And the narration attributed to the Prophet \cong , that he said, "Honor my companions, then those who follow them, then those who follow them. Then lies will appear, and a man will swear without being asked to swear and will testify without being asked to testify. Whoever desires the spaciousness of Paradise must adhere to the $jam\bar{a}'ah$, for Satan is with one, and he is farther from two."²³⁰

This narration is not used by those that make authentic narrations a condition. But we will talk about its defects, so we say, and in Allāh we seek help: Then verily the *jamā'ah* mentioned in it is only without any doubt the *jamā'ah* of the truth, even if they are only three among mankind. Khadījah *umm ul-mu'minīn* became Muslimah and the remaining people were *kuffār*. She was on the truth while the remaining mankind on earth were on misguidance. Then Zayd Ibn Ḥārithah and Abū Bakr became Muslim, they were without doubt then the *jamā'ah* and everyone else on earth on falsehood.

The Messenger of Allāh became a Prophet alone, so he has on the truth alone and everyone on earth on falsehood and misguidance. And it is established from the Prophet that Zayd Ibn 'Amr Ibn Nufayl will be resurrected on the Day of Judgment as an *ummah* by himself²³¹. And that is because Zayd believed in Allāh alone and all mankind on earth were on misguidance.

And it is established that the Prophet said, "Indeed, this religion began as something strange, and it will return to being strange, so glad tidings to the strangers." It was said, "And who are they, O Messenger of God?" He said, "Those who withdraw from the tribes."

And the Prophet said, "People are like a hundred camels; you will not find among them one fit for riding." 233

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 $^{^{229}}$ Sunan Al-Kubrā by Al-Nasā'ī 9222, 9223, 5/387-388 | Al-Muṣannaf by 'Abd al-Razzāq 20710, 11/341

²³⁰ Musnad Ahmad 177

²³¹ Sunan Al-Kubrā 8188, 5/54 | Musnad by Al-Bazzar 1331, 4/165-166 | Al-Muʿjam Al-Kabīr 4663, 5/86-87

²³² Sunan Al-Tirmidhī 2629 | Al-Muṣannaf by Ibn Abī Shaybah 24366

²³³ Şaḥīḥ Al-Bukhārī 6498 | Şaḥīḥ Muslim 2547

And the Prophet said, "The Hour will not come except upon those who have no goodness in them."234

And the Prophet said, "Islām began as something strange and will return as it began, strange. So, glad tidings to the strangers."235

And the Prophet said, "Islām began as something strange and will return as something strange, just as it began."²³⁶

And the Prophet said, "The Hour will not come upon anyone who says, 'Lā ilāha illā Allāh.'"237

And Allāh said about *ahl ul-haqq*, "Except those who believe and do righteous good deeds, and they are few" [38:29].

And Allāh said, "And most people do not know" [12:21].

And Allāh said, "And if you obey most of those upon the earth, they will mislead you from the way of Allāh" [6:116].

And Allāh said, "And most of mankind will not believe even if you desire it eagerly" [12:103].

And the words of Allāh are the truth and the words of the Prophet # are the truth and the truth is not contradicted.

And these texts we have mentioned are the Our an and the authentic narrations transmitted with tawātur. Both of them are in the utmost of clarification. So the least in the religion are ahl ul-hagg and most of people are on misguidance and ignorance. And one can be upon the truth and all other mankind on falsehood. These texts do not indicate anything other than this way of understanding at all.

And if those narrations we previously mentioned would be authentic then it would by necessity not be in the religion but in something else and by necessity its known that it is not on its 'umūm because a man being alone in his house is not rejected and the Prophet said, "May Allah have mercy on Abū Dharr, who walks alone, dies alone, and will be resurrected alone."238

And a certain decisive sufficient evidence for the one that has the least amount of understanding is that the Prophet ## never meant with jamā'ah a large amount and there is no doubt in that because the Christians

²³⁴ Sahīh Muslim 2949 | Sahīh Ibn Hibban 6850

²³⁵ Sahīh Muslim 145

²³⁶ Sahīh Muslim 146

²³⁷ Sahīh Muslim 148

²³⁸ Al-Maghāzī by Al-Wāqidī 1/1001 | Al-Mustadrak by Al-Hākim 4373, 3/52

are a *jamā'ah* and the jews are a *jamā'ah* and the Magians are a *jamā'ah* and the fire worshippers are a *jamā'ah*. Do you then think that the Prophet ## meant these *jamā'āt*? Exalted is Allāh from this.

If they say, "He only meant all of the Muslims."

We say: Those who ascribe themselves to Islām are groups. The khawārij are a $jam\bar{a}$ 'ah, the $raw\bar{a}fid$ Are a $jam\bar{a}$ 'ah and the murji 'ah are a $jam\bar{a}$ 'ah and the murji 'ah are a $jam\bar{a}$ 'ah. Do you then think that the Prophet meant anything from these $jam\bar{a}$ 'āt? Exalted is Allāh from that.

And if they say, "He only meant ahl ul-sunnah."

We say: The <code>hanafiyyah</code> are a <code>jamā'ah</code>, the <code>mālikiyyah</code> are a <code>jamā'ah</code>, the <code>hanbaliyyah</code> are a <code>jamā'ah</code> and the companions of <code>hadīth</code> are a <code>jamā'ah</code>, those who do not transgress them are a <code>jamā'ah</code>. Then which of these <code>jamā'āt</code> did the Prophet * mean? And one of them is not better in validity of making claims about it than the other.

It is absolutely and undoubtedly certain, just as the sun rises from its east, that he never intended anyone but the <code>jamā'ah</code> of <code>ahl ul-ḥaqq</code> who are followers of the Qur'ān and what is authentic from the Prophet from his clarification of the Qur'ān by his saying and action. This is the way of all companions and the best ones of the <code>tābi'īn</code> after them. Until destructive <code>taqlīd</code> emerged.

So as there is no doubt in this, and we have clarified that the order of the Prophet is with certainty only *ahl ul-ḥaqq* even if they are less than *ahl ul-bāṭil* without doubt. He never intended the large amounts at all.

So let us bow speak with the help of Allāh and his might about what is in those narrations from that satan is with singular person or with one and that he is from two further away. We have clarified in that which there is no problem that the Prophet $\stackrel{\text{\tiny{de}}}{=}$ did not intend by that the religion based on what we mentioned before from the $nus\bar{u}s$.

And another certain evidence is his $\frac{2}{3}$ saying, "And he is from two further away." If he meant the religion than the one being singular in his saying would accompany satan and that if someone joins him in that saying that satan distances himself. So the falsehood returns to truth if a man joins the singular saying, this is falsehood with certainty. This is not the attribute of the religion. Instead, falsehood is falsehood even if thousands are part of it. So it is established without doubt that he did not intend the religion and also not generally $tawh\bar{\iota}d$ at all cases. So it is established that he only meant

a specific case from the cases without doubt. And as that is the case. It is not allowed to attribute to the Prophet ## that he intended a specific case except with authentic texts from him .

And the one attributing it to him, as long as the Prophet does not say it is a liar. The Prophet # had said, "Whoever lies against me let him take his dwelling in the fire."

As the matter is as we said it with certainty, it has been established from the Prophet * the prohibition of traveling alone ²³⁹.

And in that narration itself the Prophet said no man is alone with a woman except that satan is the third.

So we are certain that he here prohibited being alone and that satan here is with the one and that if there are two then they are not part of the prohibition and satan distances from them. So it is invalid to use these narrations in other places that the *ikhtilāf* of one is not considered an *ikhtilāf* as the narration by additional evidences preceded cannot be upon generality.

And know that it is not possible for the hanafiyyah, nor the mālikiyyah nor the Shāfi iyyah to use anything from that narration because the ikthilāf of one among them is an ikhtilāf except the one that shadhdha from them from the *madhāhib* of the companions. And we have said that we have mentioned from each one of them, from Abū Ḥanīfah, Mālik, Al-Shāfi'ī hundreds of issues they were each one of them were the only one in saying and no one ever before them that they said it.

And another necessary decisive certain evidence is that we previously clarified that if that would be authentic from the Prophet * we would know that he did not intend with that the religion (the rulings) at all because the jews, Christians, Magians, atheists then the rāfidah, mu'tazilah, murji'ah, khawārij are huge jamā'āt and then satan would be far away from them would avoid them because they are larger than one. Allah denies this and by Allāh satans nest and the peak of satan is in nothing except in them without doubt and ahl ul-bāṭil whenever they grow in size then satan gets stronger in them than with the individual.

'Abdullah Ibn Amr Ibn Al-'Āṣ said, "A quarter of Sudanese people are those who wear clothes less than all the other people."240

²³⁹ Musnad Aḥmad 2/91 | Ṣaḥīḥ Al-Bukhārī 2998 | Sunan Al-Kubrā 8850, 6/137-138 | Sunan Al-Tirmidhī 1673

²⁴⁰ Al-Mu'jam Al-Kabīr 14163, 13/436

So it is established by all of this with certainty with no place for doubt that he did not mean with that the religion of Allāh, and Allāh is the source of strength.

And also the Prophet $\stackrel{\text{def}}{=}$ in those narrations praised the companions and the generation of the $t\bar{a}bi$ $\bar{i}n$ and the third generation. As he praised them, they are the $jam\bar{a}$ 'ah from the method of only taking from the texts must not be opposed, everyone that opposes them are from ahl ul- $b\bar{a}til$, even if they are all mankind on earth. Those three generations never made $taql\bar{i}d$ of anyone, they only sought the Qur \bar{i} and the Sunan, we are with them and all praise is for All $\bar{a}h$ the lord of the worlds. Everyone that makes $taql\bar{i}d$ of a human he has opposed the $jam\bar{a}$ 'ah and all praise is for All $\bar{a}h$.

Some of them have falsely said, "Since those that are similar to that one that opposed, have an $ijm\bar{a}$, we know that they are in general muslims and they are from the ummah without doubt. And we are not certain of this one that opposed that he is from the ummah. And it is obligatory on us to follow what we are certain of that they are from the ummah without the one that we are not certain that he is from the ummah."

We say: This is a mistake because Allāh ordered us during any differences (tanāzu' and ikhtilāf) to return to the Qurʿān and Sunnah by his saying, "O you who believe, obey Allāh and obey the Messenger, and if you (have tanāzu') differ in anything then return it to Allāh and the Messenger. If you believe in Allāh and the last day" [4:59].

Difference from one is a *tanāzu*' by witness and apparent. And Allāh did not say, "Then return it to the majority." And Allāh also did not say, "To those that did not oppose them except one." So the one that does not return it to the Qurʿān and Sunnah is disobedient to Allāh, opposes his order.

They also mention a narration narrated from the *tarīq* of Ibn Wahb, he said, "Abū Fahd told me, 'The Prophet said, 'Let the few follow the majority of the scholars.'"

We say: This is *mursal*, there is no good in it and it is false without any doubt, first is that it is impossible and the Prophet does not order the impossible. It is not possible to follow the fewer or the majority except after counting all of them. And we have mentioned before that counting all of them is impossible in many ways, no one except its creator alone who has no partner can do that. And another reason is that all companions after the passing of the Prophet concurred not to fight *ahl ul-riddah nor* to send out

the expedition of Usama Ibn Zaid. Abū Bakr alone opposed all of them, and he was right while they were all wrong.

If they say, "They later agreed with him."

We say yes, and this is our hujjah. And we only ask you about the situation before they concurred with Abū Bakr on this matter.

Some of them raised objections based on what is narrated about the Prophet # that, "One is a satan, two are two satans, and three are a group." 241

We say: The *nass* of this narration is only about traveling, otherwise the one praying voluntary prayer alone based on their saying is a satan and the one praying obligatory prayer with one other person are two satans. There is in this enough falsehood, and we seek refuge in Allāh.

Then we ask them: Is one according to you someone that opposes $ijm\bar{a}$ or not, if you say yes, we say to you: The one opposing $ijm\bar{a}$ according to you is a kāfir and your saying to this is 'Yes.' So we say to you: Then Ibn 'Abbās is a kāfir, and Zayd Ibn Thābit is a kāfir as you acknowledged that they opposed $ijm\bar{a}$. And by Allāh the one that attributes this to them is the most deserving themself of what he attributes to them. They both are instead upright muslims, may Allah be pleased with them. And if they refuse making takfīr of the one that opposes this type of $ijm\bar{a}$ then they have contradicted and their corruptness becomes evident and Allāh is the source of strength.

Al-A'raj narrated about Abū Hurayrah, "The people say that Abū Hurayrah narrates too much. If it were not for two verses in the Book of Allāh Almighty, I would not have narrated a single hadīth." Then he recited, "Indeed, those who conceal what We sent down of clear proofs and guidance after We made it clear for the people in the Book—those will be cursed by Allāh and cursed by those who curse, except for those who repent, reform, and make evident [what they concealed]. Those, I will accept their repentance, and I am the Accepting of Repentance, the Merciful" [2:159-160] Abū Hurairah said, "Our brothers from the muhājirīn were occupied with trading in the markets, and our brothers from the ansār were occupied with working on their properties. As for Abū Hurayrah, he used to remain close to the Messenger of Allāh #, to fill his stomach, and he would be present when they were not and would memorize what they did not."242

²⁴¹ Sunan Abi Dāwūd 2607 | Sunan Al-Tirmidhī 1674

²⁴² Sunan Al-Kubrā 5836, 5/373



There is in this narration that one can have many of the Sunan, while a jamā'ah does not have that from the Sunnah, so he is correct in his futyā if it is in the Sunnah while all others are wrong.

And by observation, we know that Muslims are fewer in number than others. The Messenger of Allah # said, "You are among the nations before you only like a white hair on a black bull."²⁴³

And the Prophet # mentioned that out of every thousand, nine hundred and ninety-nine will be in the Fire, and one will be in Paradise²⁴⁴

Then, by observation, we know that the righteous and scholars are fewer than the evil and the ignorant, and that these two types are the majority.

And by observation, we know that the pure among the scholars are fewer than them, contrary to the claim of the opponent.

And we mentioned in the chapter on the falsehood of taglīd, the saying of Ibn Mas'ūd, "None of you must say, 'I only follow the people.""²⁴⁵

And before, we mentioned the saying of Hudhaifah, "How will you be when the Qur'an takes one path and the people take a path?"

We have clarified before that the obligation is only following the Qur'ān and what the Prophet # ruled with, for there is no meaning to the saying of anyone other than that, whether those saying it are many or a few. This is a chapter that must be avoided for the misguidance in it is severe and many have perished in it. And we seek refuge in Allāh from calamity.

All of our words here are voluntary on our part. Because otherwise, it would suffice us for this entire chapter to say, with the help of Allāh Almighty, what we will mention now. That is, we tell them that anyone who claims, in any statement, and we do not exclude anything, that all scholars have unanimously agreed on it except that one has disagreed with them, or except for two, or three, or whatever number they mention, then he is a liar, fabricator, and shameless, because it is impossible in any way to know this for certain or to be definitive about it at all, due to the difficulty of counting the number of fugahā' among the Muslims. So it is clear that this is an meaningless issue and there is no argument in occupying oneself with it or in the Abundance of those who have gone astray because of it.

²⁴³ Sahīh Muslim 221

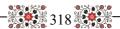
²⁴⁴ Al-Mustadrak by Al-Hākim 8952, 9/604

²⁴⁵ Al-Mu'jam Al-Kabīr 8765, 9/152



Section: About The Saying Of Who Said, "The Majority Is *Ijmā* 'And The Minority Does Not Matter."

In the previous chapter, this claim was invalidated, and in it, we mentioned everything possible that they can tumult by, so there is no need to repeat it. However, there is here an additional question, which is that we say to them: You have spoken falsehood and brought into your religion what is invalid and impossible to take place. This is because there is no way to fully apply their ruling except by counting the number of all who have spoken on the matter, from the Companions and Followers, and those who came after them, and then identifying the correct position, even if it were by just one person. This, besides being impossible, is foolishness and a claim without evidence. And also, what is the difference between your position and that of someone who says that the opinion of the group that is superior and more renowned in knowledge is more deserving, even if they are fewer in number? This leads to contradiction, and both claims are invalid because they are without certain decisive evidence. Success is granted by Allāh Almighty.



Section: The Falsehood Of Those That Say, "*Ijmā*" Is The *Ijmā* 'Of *Ahl Al-Madīnah*."

This is a view that the Mālikiyyah have clung unto, both in the past and in the present, and it is in the utmost corruption. They used as evidence for this, narrations, some of which are authentic and in which they claimed indicate that Madīnah is the best of lands, and some of which are fabricated made up by the likes of Muḥammad Ibn Al-Ḥasan Ibn Zubālah and others. This is not the place to mention them because our discussion in this book is about the fundamental principles gathered concerning rulings, not about determining the best of lands. We have however still went through all of these narrations in our book known as Al-Iṣāl (and Al-Muḥallā) at the end of the chapter on Ḥajj, where we spoke in detail the invalidity of all that is invalid from it and clarified what is authentic among them with the utmost clarity, and that verily Makkah is the greatest land in the world not Madīnah and all praise is due to Allāh, Lord of the Worlds.

Their arguments all gathered are: "Madīnah is the place where the revelation descended, the land of the *hijrah*, the gathering place of the Companions, and the residence place of the Prophet and its people are most knowledgeable the rulings than others. They are witnesses to the final actions of the Prophet and they knew what was abrogated and what was not."

Then they differed: a group among them said, "Their $ijm\bar{a}$ ' is valid and authoritative only in matters related to transmission (narrations)."

Another group said, "Their $ijm\bar{a}$ ' is valid and authoritative both in matters of their narrations and in matters of their $ijtih\bar{a}d$ because they are more knowledgeable about the texts from which rulings are derived and from which $qiy\bar{a}s$ is based. So their derivation and $qiy\bar{a}s$ are more accurate than those of others."

And they also said, "It is impossible that the ruling of the Prophet #would be hidden from the majority—those who remained in Madīnah—while

it would be known by the minority—those who left Madīnah, while they were occupied with jihād."

And they mentioned the statement of 'Abd al-Raḥmān Ibn 'Awf to 'Umar Ibn Al-Khaṭṭāb, may Allāh be pleased with them, when 'Umar wanted to address the many people gathered during the pilgrimage season because he heard someone say, "If 'Umar were to die, we would pledge allegiance to soand-so." 'Umar said, "I will certainly stand up this evening and warn the people against these individuals who want to usurp their rights." But 'Abd Al-Rahmān Ibn 'Awf said, "O amīr ul-mu'minīn, do not do so, for the pilgrimage season gathers the rabble, and they will overwhelm your assembly. I fear that they may not understand it properly and that it will spread uncontrollably. So, wait until you return to Madinah, the place of hijrah and the place of the Sunnah, where you can meet privately with the companions of the Messenger of Allāh #, from the *muhājirīn* and the *ansār*, who will understand your words correctly and convey them as they should be conveyed."246

This is every single thing they have to use as an argument, and there is no hujjah for them in any of it based on what we will clarify by the will of Allāh: As for their claim that Madīnah is the best land, it is a mere claim, we have clarified that at a different place. We have clarified that Makkah is the greatest land by the text of the Qur'an and affirmed Sunnah, besides that it is also the saying of the companions and this is not the place to speak about that but we say to them: Assume the matter is just as you say it is, while it is not, then what certain decisive evidence is there in it being the best land and that $ijm\bar{a}$ is the $ijm\bar{a}$ of the people of that land? How can someone who knows that their words are being written down and that they will be held accountable for them before Allah, the Almighty, not feel ashamed to use such a deception? We say: Mecca is the best land, but this does not imply the obligation of following its inhabitants over others, nor that their $ijm\bar{a}$ is more authoritative than that of others, nor that they are a *hujjah* against others. The virtue of the location does not require any of that.

And also, no two Muslims disagree that there were hypocrites in Madīnah, and they are the worst of creation. Allāh, the Exalted, said, "And from the people of Madīnah. They have persisted in hypocrisy. You, [O

²⁴⁶ Sahīh Al-Bukhārī 6830, 7323



Muḥammad], do not know them, but We know them. We will punish them twice; then they will be returned to a great punishment" [9:101].

And He, the Exalted, said, "Indeed, the hypocrites will be in the lowest depths of the Fire, and never will you find for them a helper" [4:145].

In Madīnah, there were also *fussāq*, as in all other lands, as well as adulterers, liars, drunkards, and slanderers, just like in any other place—there is no difference.

And today, its inhabitants, and to Allāh we belong and to Him we shall return, are extremist *rawāfiḍ kuffār*. Do you then see any virtue in them that would obliges following because they live in Madīnah? From their saying to this is, "No, but the *ḥujjah* lies only with the virtuous people of Madīnah."

We then ask them: On what basis do you prefer the virtuous people of Madīnah over the virtuous people of other lands? This is something for which there is not a single evidence to prove its validity, ever.

And also, the virtue of Madīnah remains as it is, unchanged and will never change, while its inhabitants have become the most corrupt of people. So it is false to claim that the location itself implies the obligation to follow its inhabitants. It is established that a virtuous person is virtuous wherever they may be, and a sinner is a sinner wherever they may be.

As for their claim that the people of Madīnah are more knowledgeable about the rulings of the Messenger of Allāh, than others, this is false and a lie. The truth is that the Companions of the Messenger of Allāh, are the ones knowledgeable about his rulings, whether they stayed in Madīnah or left it. Those who remained in Madīnah did not gain an additional level of knowledge or virtue by staying there, nor did those who left Madīnah lose any level of knowledge or virtue by leaving.

And as for their claim that those who stayed witnessed the final rulings of the Prophet and knew what was abrogated and was not, this is a gross deception and an obvious lie. Instead the Companions who left Madīnah witnessed from that just as those that were residents there witnessed in the exact same manner such as 'Alī, Ibn Mas'ūd, Anas and others without difference. Lying is a disgrace in this world and a fire in the Hereafter. So the corruption of all that they falsified and built upon this corrupt foundation, the collapsing foundation, is evident.

As for their claim that it is impossible for the ruling of the Prophet **
to be hidden from the majority—those that remained in Madīnah—while the

lesser ones would know it—while they departed from Madīnah—this is an obvious deception and a shallow argument. It would only be possible to make such a claim if they found a single issue narrated by every Companion who remained in Madīnah and that fatwā was given by that by every one of those who stayed in Madīnah. But they will never find such a mas 'alah, not even one. What they will only find is the $fatw\bar{a}$ of one, two, or three Companions and their narration likewise. So is possible for the ruling of the Prophet ## to be unknown to a few Companions while known to only one or more of them. It is also possible that the Companion who was present for that ruling left Madīnah, or perhaps remained there, or the opposite could also be true—there is no difference. The Companions only dispersed across various lands after the death of the Prophet 3.

As for the statement of 'Abd Al-Rahman to 'Umar that we mentioned, regarding delaying the matter until they reached Madīnah to consult with the leading figures, the people of figh, and the knowledgeable ones. Then by Allāh, Mālik did not meet any of those individuals; rather, he took from those that took from them as the people of other cities did—there without any difference. And also, the statements made by 'Abd Al-Raḥmān and agreed upon by 'Umar is a hujjah. All Muslims know that the Messenger of Allāh did not deliver the khutbah in which he entrusted the people, making it like a farewell to them, and confirmed with them, "Have I conveyed [the message]?" and called Allah as a witness over them, except during the pilgrimage, when the large gathering included the Bedouins and others, which is the complete opposite of the actions of 'Abd Al-Rahmān and 'Umar. The action of the Messenger of Allāh is is more worthy of following than the ra 'ī of 'Abd al-Rahmān and 'Umar.

And another certain decisive evidence for this is that if the a'immah had followed this $ra \bar{i}$, the $j\bar{a}hil$ would never learn anything at all. So, it is clear that addressing the common people and the ignorant with what they need to know must happen with no other way.

What is truly astonishing is that they use the $ijm\bar{a}$ of the people of Madīnah as a pretense, yet they end up relying solely on Mālik's ra'ī, and take from no other.

They are in reality a people who are the most abandoning of the sayings of the people of Madīnah, such as those of 'Umar, Ibn 'Umar, 'Ā'isha, 'Uthmān, and then Sa'īd Ibn Al-Musayyib, Al-Qāsim, and others.

And from the world's unparalleled wonders is how some people would die to follow the ra $\bar{\imath}$ of Ibn Al-Qāsim from Egypt and Saḥnūn Al-Tanūkhī from Africa, because Ibn Al-Qāsim took from Mālik and Saḥnūn took from Ibn Al-Qāsim, who took from Mālik. Yet, they see no value or any significance in the teachings of Masrūq, Al-Aswad, and 'Alqamah, who all took from 'Ā'isha, the Mother of the Believers, as well as from 'Umar and 'Uthmān. Then they are not ashamed to deceive others by appealing to the people of Madīnah.

We only mentioned those who learned from the scholars of Madīnah to expose their contradictions and to indicate their inconsistencies. These individuals are the ones to abandon the $ijm\bar{a}$ of the people of Madīnah in reality the most from anyone.

The people of Madīnah all had *ijmā*, along with the Messenger of Allāh, to allow the distribution of the wealth that the Prophet had allocated to the conquerors of Khaybar, giving it to the Jews under the condition that they work on it with their wealth and labor, allowing them to stay as long as Allāh willed, and expelling them whenever they wished. This arrangement continued for four years until the death of the Messenger of Allāh, and then during the *khilāfah* of Abū Bakr until the last year of 'Umar's caliphate. Yet, those who claim to follow the way of the people of Madīnah say that this contract was invalid, and that this practice was null and void, by *taqlīd* of the false ra \bar{r} of Mālik.

Jābir Ibn 'Abdullah, narrated, "We sacrificed a camel with the Messenger of Allāh son the day of Ḥudaybiyyah, seven people sharing in one camel and seven people sharing in one cow."

Jābir also narrated, "On that day, we slaughtered seventy camels, with every seven of us sharing in a camel." 248

This is the real $ijm\bar{a}$ of ahl ul-mad \bar{i} nah and their practice in the presence of the Messenger of All \bar{a} h and the true $ijm\bar{a}$ of the Companions. But these who claim to follow the people of Mad \bar{i} nah say that this practice is not permissible and does not suffice, based on $taql\bar{i}d$ of M \bar{a} lik's mistake and opposing the people of Mad \bar{i} nah, and misleading by using a narration from Ibn 'Umar, while the opposite of what is in that narration is established from him.

²⁴⁷ Sharh Mushkil Al-Āthār 2592, 7/13

²⁴⁸ Sahīh muslim 1318

And they abandoned the actions of the people of Madīnah, all those who were present with 'Umar when he did sujūd during the recitation of the verse, "When the sky is split" [84:1]²⁴⁹.

And also the *sujūd* of *ahl ul-madīnah* with 'Umar when he recited the prostration verse while delivering a sermon on the day of jumu'ah, so he descended from the pulpit, prostrated, and they prostrated with him, then he returned to his sermon²⁵⁰.

Then these people who claim to follow ahl ul-madīnah say about these actions, "It is not permissible," based on taglīd on Mālik's mistake in that.

And there is no way to find an action of the people of Madīnah more general than this (a stronger agreement).

And they abandoned the *ijmā* of *ahl ul-madīnah* when they prayed with the Messenger of Allāh # the last prayer he led with the people, and they said this prayer is invalid, based on *taqlīd* of Mālik's mistake in that.

And what is astonishing is that all of them argue in abandoning the ijmā' of ahl ul-madīnah on this matter and their actions by relying on the narration of the lying Kūfī Jābir al-Ju'fī from al-Sha'bī that the Prophet # said, "No one will lead (the prayer) after me while sitting." ²⁵¹

And this narration, there is not among the narrations of Ahl ul-*Madīnah* more false than this. Is there anything more astonishing than this?

Abū Bakr Ibn Muḥammad Ibn 'Amr Ibn Ḥazm narrated, "Sulaymān ibn 'Abd al-Mālik, during the year he performed *hajj*, gathered people from ahl ul-'ilm, among them were 'Umar Ibn 'Abd Al-'Azīz, Khārijah Ibn Zayd Ibn Thābit, Al-Qāsim Ibn Muḥammad, Sālim and 'Abdullah, the two sons of 'Abdullah Ibn 'Umar, Ibn Shihāb, and Abū Bakr Ibn 'Abd al-Rahmān Ibn Al-Hārith Ibn Hishām. He asked them about using perfume before performing the ifāḍah (tawāf). All of them ordered him to use perfume, and Al-Qāsim said, 'Ā'isha informed me that she perfumed the Messenger of Allāh # for his *iḥrām* when he entered *iḥrām*, and for his *ḥill* when he exited *iḥrām*, before he performed tawāf around the Ka'bah.' None of them disagreed on it except that 'Abdullah Ibn 'Abdullah said, 'Abdullah was a harsh man, he

²⁴⁹ Al-Muşannaf by Ibn Abī Shaybah 5884, 3/340 | Sharḥ Mushkil Al-Āthār 3624, 9/258 | Al-Mu'jam Al-Kabīr 8729, 9/158

²⁵⁰ Sahīh Al-Bukhārī 1077

²⁵¹ Sunan Al-Dāragutnī 1485, 2/252

used to throw the pebbles, then slaughter (the sacrifice), then shave (his head), then mount (his ride), and then perform the *ifāḍah* before returning to his residence.' Sālim said, 'He has spoken the truth.'"²⁵²

This is the *futyā* of *ahl ul-madīnah* and their scholars from their *salaf*. But then those people who claim that they follow *ahl ul-madīnah* say about this act, "It is not allowed," based on *taqlīd* of the mistake of Mālik.

And they use as evidence the $K\bar{u}f\bar{i}$ narration that does not go in accordance with their saying, but they deceivingly mention it.

Abū Jaʿfar said, "There was no family among the *muhājirīn* in *madīnah* except that they cultivated land on the basis of receiving a third or a quarter of the produce. 'Alī, Saʿd ibn Mālik, 'Abdullah ibn Masʾūd, 'Umar ibn 'Abd al-'Azīz, al-Qāsim, 'Urwah, the family of Abū Bakr, the family of 'Umar, the family of 'Alī, and Ibn Sīrīn all entered into agreements to work land in exchange for a portion of the yield. 'Abd ar-Raḥmān ibn al-Aswad said that he partnered with 'Abd ar-Raḥmān ibn Yazīd in cultivation, and 'Umar employed people on the condition that if he provided the seeds, he would receive half of the crop, but if they provided the seeds, they would receive a specified portion." And Al-Zuhrī saw that²⁵³.

Is there then an act for which it is possible to say, "It is $ijm\bar{a}$!" more apparent and more widespread than this? They however, who deceivingly claim to follow *ahl ul-madīnah* say about this act, "This is not allowed," based on $taql\bar{t}d$ of Mālik's mistake in that.

And the wonder is that Mālik did not claim the *ijmā* of *ahl ul-madīnah* except for forty-plus issues. Yet these people make *istiḥlāl* of this matter with a mere breath and make of all Mālik's *ra* ī part of the *ijmā* of *ahl al-madīnah*. Indeed, we belong to Allāh, and to Him we shall return, regarding the spread of lies and the deception of the heedless, and the delusion with falsehood.

Then the issues mentioned in which Mālik claimed that it is the *ijmā* of *ahl al-madīnah* splits into two types: First is that on which there is not known any difference of opinion from anyone from mankind in the remaining cities and this is the least. And second is that we do find *ikhtilāf* in *madīnah* just as it exists in other than *madīnah*.

²⁵² Sunan Al-Kubrā 4160, 2/458 | Sharh Al-Maʿānī 2/232

²⁵³ Şaḥīḥ Al-Bukhārī 3/104 | Sunan Al-Bayhaqī 6/135

And we say to them: That what you claim of ijmā of ahl ul-madīnah that it is tawqīf from the Prophet # or it is ijtihād, we have preceded our invalidation of all *ijtihād* that goes to where there is no naṣṣ or to the opposite of nass.

Then even if it would be valid, then how could it be valid that the ijtihād of ahl ul-madīnah would be given preference over others, when the $nus\bar{u}s$ they base their $qiy\bar{a}s$ on are known to others just as they are to them? Concealing them is impossible and unfeasible. There is no difference between this claim of theirs and the claim of others. Or it is that their $ijm\bar{a}$ is based on tawqīf from the Prophet # , and there remains no other possibility but this. Then this tawqīf cannot be free from one of the following: either the companions who left Madīnah knew about it, or they were ignorant of it; or those who knew of it in Madīnah informed the rest of the people, or they concealed it. If those who left Madīnah knew about it, or if those who stayed in Madīnah informed the rest of the people, then the people of Madīnah and others are equal in this knowledge by necessity.

But if those who remained in Madīnah concealed it from the rest of the lands, this is impossible, for every secret known to more than two people is widespread. How then could something known to all the people of Madīnah, as they claim, remain concealed? And even if it were true that they concealed it, then all of their 'adalah would be invalidated, for Allah the Exalted said, "Indeed, those who conceal what We sent down of clear proofs and guidance after We made it clear for the people in the Book—those are cursed by Allāh and cursed by those who curse" [2:159]. And Allāh has saved then from this, so it is invalidated by necessity what they claim of $ijm\bar{a}$ of ahl al-madīnah.

And also $ijm\bar{a}$ is not valid to transmit except with a similar $ijm\bar{a}$ or tawātur transmission. While they do not return in their false ijmā of ahl almadīnah claims except to one man only who is Mālik, it is a transmission of one just as transmission of others from the 'ulamā' without difference. And also it is said to them: Tell us, did the Prophet specify the conveying of the aḥkām of the religion or some of them or even one hukm to those that reside in Madīnah from the companions, from those Allāh knows that that they will depart to another city.

If they say, "Yes," they apostate and have lied as they make the Prophet concealing something of the religion from those who are obligated to know it, just as others are obligated. In doing so, they have joined the sayings of the *rawāfiḍ* closely. If they say 'no,' then it is established that the Sunnah is the clarification of the religion outside of Madīnah just as it is inside of Madīnah, necessarily, with no difference. And also, those Companions who remained in Madīnah used to engage in *ighārah* and perform *ḥajj*, and those who left Madīnah would visit 'Umar and 'Uthmān. So there was inevitable interaction between them.

And likewise the narrations are authentic by the transmissions of the $t\bar{a}bi\,\bar{i}n$ from the remaining cities from the people of Madīnah, and the transmission of the $t\bar{a}bi\,\bar{i}n$ from the people of Madīnah and after them from the people of the other cities.

'Alqamah and Masrūq accompanied 'Umar, 'Uthmān, and 'Ā'isha, the Mother of the Believers, and were closely associated with them, taking much knowledge from them. Similarly, 'Aṭā' accompanied 'Ā'isha, the Mother of the Believers; Al-Sha'bī and Ibn Sīrīn accompanied Ibn 'Umar; Qatādah accompanied Ibn Al-Musayyib; Al-Zuhrī took from Anas; Mālik took from Ayyūb and Ḥumayd al-Makkī; 'Ubaydullah ibn 'Umar took from Thābit al-Bunānī; and 'Ubaydullah Ibn 'Abdullah Ibn 'Utbah took from Ibn 'Abbās.

Sa'īd Ibn Al-Musayyib said, "I used to travel for days and nights in search of a single *ḥadīth*."²⁵⁴ So the matter is equal between Madīnah and other places without any doubt.

And also, we say to them: Did 'Umar and 'Uthmān deliberately not send those who would teach the people of Baṣrah, Kūfah, Shām, and Egypt their religion and the rulings, or did they neglect and abandon that responsibility while their governors were frequenting these lands and the delegations from these lands were coming to them every year? Or did they not neglect it but rather taught them everything they needed to know about the religion? There is no way other than one of these options. If they say, "They deliberately concealed the religion from them or neglected it," they lie openly and accuse the two upright *khalīfahs* of something from which Allāh has purified them, from something that is the greatest injustice and the worst corruption—indeed, it is an exit from Islām.

 $^{^{254}}$ Al-Ţabaqāt Ibn Saʿd 2/381, 5/120 | Al-Tārīkh by Ibn Abī Khaythamah 2007, 2009, 4/128

But if they say, "They did not neglect it and taught them everything they needed to know and act upon from the religion," we say: You have spoken the truth. So it is established by this that the people of Madīnah and others are equal in knowledge, understanding, and integrity, and the falsehood of their claim to the $ijm\bar{a}$ of the people of Madīnah is evident.

Hārithah Ibn Mudrib said, "I read the letter of 'Umar ibn Al-Khattāb to the people of Kūfah: 'I have appointed 'Amr as your amīr and 'Abdullah as your teacher and advisor. They are among the distinguished companions of the Messenger of Allāh and are from the people of Badr. So take from them and follow their example, for I have preferred 'Abdullah over myself in this matter.",255

Abū Muḥammad said, "Aḥmad Ibn 'Umar Ibn Anas Al-'Udhrī narrated to me: 'Abdullah Ibn Al-Ḥusayn Ibn 'Iqāl narrated to us: Ibrāhīm ibn Muhammad Al-Dīnawarī narrated to us: Muhammad Ibn Ahmad Ibn Muhammad Ibn Al-Jahm narrated to us: Ismā'īl Ibn Isḥāq Al-Qādī narrated to us: Ahmad Ibn Yūnus narrated to us: Qays Ibn Ash'ath narrated from Al-Sha'bī who said, 'Whatever comes to you from 'Umar, take it, for he used to consult the Companions of Muhammad # whenever he intended to undertake something. If they had *ijmā* on a matter, he would write it down."256

This is 'Umar teaching what he has with him from knowledge to the people of the cities, so the matter in Madīnah and other places are the same.

And also we say to them: If the *ijmā* of *ahl al-madīnah* is the real $ijm\bar{a}$, then from their saying also is that, "Whoever opposes $ijm\bar{a}$ is a $k\bar{a}fir$," so you make takfīr of everyone that opposes the ijmā of ahl al-madīnah with your claim or not?

If they say, "Yes," they are obliged to make takfir of Ibn Mas'ūd, 'Alī and from everyone whom $futy\bar{a}$ is narrated which opposes your $ijm\bar{a}$ ' claims of ahl al-madīnah, from companions or tabi'īn and other than them, and there is in this the falsehood as you can see.

And if they refuse that, then it is said to them: You have lied claiming that the $ijm\bar{a}$ of ah al-madīnah is the real $ijm\bar{a}$, so retract from that and limit yourselves to saying what is correct or true, and so on.

²⁵⁵ Al-Muşannaf by Ibn Abī Shaybah 32237, 6/384 | Al-Mustadrak by Al-Ḥākim 3/438 | Al-Fadā'il by Ahmad 1547, 2/842

²⁵⁶ Al-Ihkām Fī al-Usūl al-Ahkām 2/635

And also, nothing is more apparent, more well known, more public, more clear, and more widespread than the *adhān*, which occurs every day and night five times, with voices raised in the mosques of congregations and in the elevated minarets. No man, woman, child, scholar, or ignorant person is left without hearing it repeatedly. It is used by travelers as it is by those present, and it is not forgotten with time. And yet in Madīnah, there is as much difference regarding it as there is outside Madīnah.

It has been narrated from Ibn 'Umar that the call to prayer is in odd amounts, and it has been narrated from him and from Abū Umāmah ibn Sahl Ibn Ḥunayf regarding the *adhān*, "ḥayya 'ala khayr al-'amal (come to the best of deeds)."²⁵⁷

Muḥammad Ibn Sīrīn narrated, "Ibn 'Umar passed by a *mu'adhin* and said to him, 'Make your *adhān* to the prayer odd (in number)."²⁵⁸

Nāfi' narrated, "Ibn 'Umar said, 'The $adh\bar{a}n$ is three times, three times." 259

And it is narrated about Ibn 'Umar that he said about, "hayya 'ala alfalāḥ," in the adhān, that it is, "hayya 'ala khayr al-'amal." ²⁶⁰

And whoever claims that the companions at Kūfah, Baṣrah and Makkah changed the $adh\bar{a}n$ (have the authority in the religion to), then he is a $k\bar{a}fir$. Likewise if he claims that the companions at Madīnah changed it, both are cursed liars.

The rights of the Companions in Madīnah, Kūfah, and Baṣrah are valid and obligatory similar upon every Muslim, with no difference.

Whoever makes such a claim about the $t\bar{a}bi$ $\bar{i}n$ in Kūfah and Baṣrah, then he is a $f\bar{a}siq$, just as the one that claims that about the $t\bar{a}bi$ $\bar{i}n$ of Madīnah without difference.

And whoever claims this about the *wullāt* in Baṣrah and Kūfah, then others can attribute the same about the *wullāt* in Madīnah. Those who governed Madīnah included corrupt individuals like those who governed Baṣrah and Kūfah, such as Al-Ḥajjāj, Khālid Al-Qaṣrī, Ṭāriq, and ʿUthmān

 258 Al-Muṣannaf by 'Abd al-Razzāq 1784, 1/460 | Majmū' by Ibn Al-Bakhtarī 645, pg. 417

 $^{^{257}}$ Sunan Al-Kubrā by Al-Bayhaqī 1/424

 $^{^{259}}$ Al-Muṣannaf by 'Abd al-Razzāq 1785, 1/460

 $^{^{260}}$ Al-Muṣannaf by ʿAbd al-Razzāq 1786, 1787, 1/464 | Al-Muṣannaf by Ibn Abī Shaybah 2240, 2241, 1/196

Ibn Hayān Al-Murrī. All of them carried out his rulings of bloodshed, (taking of) wealth, and judgments, and their corruption in religion was such that it was not hidden. This is a severely false principle.

Then as for zakāh, Al-Zuhrī saw it an obligation on greens and fruits²⁶¹.

Then Mālik did not believe it is an obligation.

And Ibn 'Umar did not consider zakāh obligatory on what the earth produces except for wheat, barley, dates, olives, and spelt.

Then Mālik opposed him, and there is nothing after the call to prayer $(adh\bar{a}n)$ for the prayer a more well-known act $zak\bar{a}h$.

And Ibn 'Umar did not allow the zakāh al-fitr except in dates and barley. Then Mālik opposed him²⁶².

Ibn 'Umar, Sa'īd Ibn Al-Musayyib, Al-Qāsim Ibn Muḥammad, Sālim Ibn 'Abdullah Ibn 'Umar, Abū Sulaymān, 'Abd al-Rahmān Ibn 'Awf, Al-Zuhrī, and 'Ubaydullah Ibn 'Abdullah Ibn 'Utbah Ibn Mas'ūd all said that the people equated one (amount of) $s\bar{a}$ of barley in the zakāh al-fitr to two mudds of wheat. This was also narrated from 'Umar, 'Uthman, and Asma' Bint Abī Bakr.

And Mālik opposed all of them, so it is established that they are the most abandoning of people to the actions of *ahl al-madīnah*.

And some of them said, "Those who left Madīnah were occupied with ighārah."

We already clarified this and *ighārah* does not distract from teaching the religion, so your statement is a struggle in falsehood.

And they said, "Ibn Mas' ūd would, when he gave a fatwā, come to Madīnah and ask about it. If he found that he had issued a fatwā contrary to theirs, he would return to Kūfah and revoke what he had ruled."

The answer: This is a lie; it only came in the narrations that he merely issued two fatwas, and that then 'Umar ordered to revoke them, and 'Umar was the *khalīfah*, so it was not possible for him to oppose it.

Abū 'Amr Al-Shaybānī narrated, "A man asked Ibn Mas'ūd about a man who divorced his wife before consummating the marriage, 'Can he marry her mother?' He said, 'Yes,' so he married her, and she bore him a child. When he came to 'Umar and asked him, 'Umar said, 'Separate them.'

²⁶¹ Al-Musannaf by 'Abd al-Razzāq 7192, 4/120

²⁶² Al-Muwatta 1/284



Ibn Mas'ūd said, 'But she has given birth.' 'Umar replied, 'Even if she gave birth to ten, separate them.'"²⁶³

And difference of opinion regarding this exists in Madīnah.

Sa'īd Ibn Al-Musayyib narrated, "Zayd Ibn Thābit said, 'If a man divorces the daughter (of a mother) before consummating the marriage, he may marry her mother. But if she dies, he cannot marry her mother." ²⁶⁴

'Abd Al-Ḥākim Ibn 'Abdullah Ibn Abī Furwah narrated, "A man from Banū Layth, called Al-Ajda', married a young slave girl. He used to visit her and talk with her mother. His wife died before he consummated the marriage, so he proposed to her mother and asked some of the Companions of the Prophet ²⁸ about that. Some of them permitted it, and others prohibited it."²⁶⁵

This is while the mentioned issue is *manṣūṣah* in the Qurʿān, which all people have with them just the people of Madīnah.

But those who permitted this ruling considered the mother to be under the same ruling as the stepdaughter, and those who prohibited it took the apparent and general meaning of the verse, which is the truth.

So there is no superiority here for the people of Madīnah over others at all.

And it is established that 'Umar sought a *fatwā* from Ibn Mas'ūd about a divorce and a *raj'ah* within the '*iddah*, then 'Umar took his saying²⁶⁶.

This is an Imām of Madīnah that accepted the saying of a Kūfan.

And they mentioned an oddity that would make even the grieving laugh and which indicates the weak $d\bar{\imath}n$ and low intellect of the one who uses it deceivingly. They mentioned the narration of Ibn 'Umar when he saw Sa'd wiping (over his socks) and did not act on it until he returned to Mad $\bar{\imath}$ nah and asked his father.

This is evidence against them, not for them, because Ibn 'Umar was from Madīnah, and while that was the case the ruling on wiping was hidden

Muwatta' 2/533

 $^{^{263}}$ Al-Mu'jam Al-Kabīr 9624, 9/378 | Sunan Al-Bayhaqī7/59 | Al-Muwaṭṭa' 2/534 264 Al-Muṣannaf by Ibn Abī Shaybah 16269, 3/484 | Sunan Al-Bayhaqī7/160 | Al-

 $^{^{265}}$ Al-Muwaṭṭaʻ 2/533 | Sunan Al-Tirmidhī 3/425 | Al-Muṣannaf by Ibn Abī Shaybah 3/483 | Sunan Saʾīd Ibn Manṣūr 1/233 | Sunan Al-Bayhaqī 7/159-160 266 Al-Musannaf by ʻAbd al-Razzāq 10988, 10989, 6/316

from him, and also Sa'd was also from Madīnah, and Ibn 'Umar did not take from his actions!

Except if they say, "It is not permissible to act on the opinion of someone from Madīnah unless it is within the walls of Madīnah," then this is foolishness that only a fool utters.

They also tried to mislead by mentioning what Al-Hasan narrated, "Ibn 'Abbas, while he was the governor of Başrah at the end of the month, said, 'Give out the zakāh of your fasting' The people looked at each other, and he said, 'Who among you is from the people of Madīnah? Stand up and teach your brothers, for they do not know that this zakāh was made obligatory by the Messenger of Allāh $\stackrel{\text{\tiny{de}}}{=}$ on every male or female, free or slave, one $s\bar{a}$ of barley or dates, or half a $s\bar{a}$ of wheat."²⁶⁷

We clarified this narration before, there is no hujjah in them in this for many reasons: First, it is a weak, disconnected narration that al-Hasan without doubt took from other than a thigah, because Al-Hasan was not in Basrah during the time of Ibn 'Abbās when he was the governor for 'Alī Ibn Abī Tālib. Rather, Al-Hasan only settled in Basrah during the time of Mu'āwiyah; there is no disagreement on this.

Secondly, Baṣrah was founded (built) by 'Utbah Ibn Ghazwān Al-Māzinī from Banū Māzin Ibn Mansūr, the brother of Sālim Ibn Mansūr. He was a badarī among the prominent early muhājirīn who were tested in the cause of Allāh at the beginning of Islām in the year fourteen of the hijrah, during the early days of 'Umar's khilāfah. It was only after the Battle of the Camel, in the last year of the thirty-sixth year after *hijrah*, twenty-two years after its foundation, that Ibn 'Abbas governed it for 'Alī. The Companions and the tābi 'ūn lived there, and Abū Mūsā Al-Ash 'arī governed it after 'Utbah Ibn Ghazwan, along with Al-Mughīrah Ibn Shu'bah and others during the time of 'Umar and throughout the reign of 'Uthman. Anas Ibn Malik collected its zakāh during those days.

Then how can it be possible for anyone with any 'aql to believe that a city inhabited by tens of thousands of Muslims, including hundreds of Companions, who were there during the time of 'Umar and 'Uthman, did not know the zakāt al-fitr which is known by women and children in every city and village because it is repeated every year after Ramadan? And that they

²⁶⁷ Sunan Al-Kubrā by Al-Nasā'ī 2299, 3/39



remained for the mentioned period without anyone teaching them this, while the people of Madīnah knew it?

How could such an important matter be hidden, with delegations from Baṣrah visiting the caliphs in Madīnah? By Allāh, this would be a greater calamity for 'Umar and 'Uthmān and the people of Madīnah than for the people of Baṣrah, if they intentionally neglected to teach them or wasted it. All of this is false, impossible to have happened, and clear deception. It is inconceivable given what we have mentioned.

Thirdly, those who argue with this narration and are the *muqallidūn* of Mālik are the first to invalidate this narration. They do not accept the (amount of) half- $s\bar{a}$ of wheat in place of one $s\bar{a}$ of barley in $zak\bar{a}t$ al-fitr. Is it not a disgrace and a shame that someone uses a narration as evidence for something that it does not indicate in the narration, arguing against those who do not consider it a hujjah at all even if it would be authentic because it is not from the words of the Prophet and then the one who used it is also the first to oppose what he used as evidence and the first to invalidate and deny what is in it?

If that narration were the truth in the religion (as they claim), then no one would be allowed to disagree with it because it is from the Prophet .

We seek refuge with Allāh, the Almighty, from such statements in this world and the Hereafter.

And since they have validated the narration of Al-Ḥasan from Ibn ʿAbbās here, then likewise Al-Ḥasan narrated from Ibn ʿAbbās, "The Messenger of Allāh $\stackrel{\text{\tiny def}}{=}$ made the $zak\bar{a}t$ al-fitr obligatory on every child and the adult, the free and the slave, one $s\bar{a}$ 'of dates, or one $s\bar{a}$ 'of barley, or half a $s\bar{a}$ 'of wheat. And whoever brings flour will have it accepted, and whoever brings roasted wheat will have it accepted."

And yet they are the first to disobey what is in this narration. Oh people, at one time they declare $sah\bar{\imath}h$ the $riw\bar{a}yah$ of Al-Ḥasan from Ibn 'Abbās when they think they can use it deceivingly to support their false claims, and at another time they invalidate the $riw\bar{a}yah$ and deny it when it contradicts Mālik's ra' $\bar{\imath}$. They distort their own evidence and contradict themselves. Truly, this is the clear misguidance.

And this is a narration narrated by Ibn Sīrīn and Abū Rajā from Ibn 'Abbās, and they were present during his governance, but they did not

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 $^{^{268}}$ Sunan Al-Kubrā by Al-Bayhaqī 7712

mention what Ibn 'Abbās said of, "O people of Madīnah, stand up and teach your brothers," so it is established that that was an addition from someone who has no good in them.

So, all of their deceptions are invalidated. And we, praise be to Allāh, are confident that if Allāh had willed to make the $ijm\bar{a}$ of the people of Madīnah a *hujjah*, He would not have neglected to specify this on the tongue of His Messenger . Since He did not do so, we affirm that He never made their ijmā 'a hujjah over any of His creation. This is assuming that their ijmā ' on any matter of rulings even exists, which it does not, unless it is in agreement with the rest of the Muslims, or where their $ijm\bar{a}$ and approval with that ruling has been transmitted from all of them. Otherwise, the claim of their $ijm\bar{a}$ is purely a lie upon all of them, and we seek refuge with Allāh, the Most Great, from such things.

And Mālik said in his Muwatta' which we have narrated from him through various *turuq*, in the Book of Sales (*kitāb al-buyū'*), at the beginning of it, in the chapter entitled "Defects in Slaves," (al-'ayb fī al-raqīq) that Mālik said, "The matter upon which there is $ijm\bar{a}$ according to us is that whoever sells a slave, female slave, or animal with Barā'ah (the seller stipulates that they will not be held responsible for any defects that the buyer may discover in the purchased item after the sale is completed), he is free from any defect, unless he knew of a defect and concealed it. If he knew of a defect and concealed it, his Barā 'ah will not benefit him, and what he sold is to be returned to him."269

While the act which his followers and $muqallid\bar{\imath}n$ are upon is the other saying of Mālik, "The ruling for animals is different from that of slaves, and selling with Barā 'ah is not allowed at all in the case of animals. Instead, it is like goods—whether he knows of a defect in them or not, he does not have bara'ah from the defects in it, whether he knows it or if he does not know it."270

So if, according to these misguided people, the ijmā' of ahl ulmadīnah is such that it is not allowed to oppose it, and yet here is Mālik himself opposing what he claimed was the $ijm\bar{a}$ among them.

Then by necessity one of two rulings must apply: either their exaggeration about the ijmā' of ahl al-madīnah is invalidated, allowing

²⁶⁹ Al-Muwatta ' 2/613

²⁷⁰ Al-Nawādir Wal-Ziyādāt 6/239



opposition to it. Or they must place Mālik, whom they make $taql\bar{\iota}d$ of in their religion, and place him where they place those that oppose the $ijm\bar{a}$ (kufr), which Mālik himself acknowledged that it was an $ijm\bar{a}$, and this is difficult to turn away from as he acknowledged himself it was the $ijm\bar{a}$.

And this suffices for anyone with the least bit of 'aql and for those whom All \bar{a} h wills to guide.

As you see, the people exaggerate regarding the $ijm\bar{a}$ of ahl $almad\bar{\imath}nah$. But if you press them on it, they will not be able to bring the $ijm\bar{a}$ of all the people of Madīnah. Instead, they rely solely on what Saḥnūn Al-Qayrawānī and 'Īsā Ibn Dīnār Al-Andalusī narrated from Ibn Al-Qāsim Al-Miṣrī, who took it from Mālik alone, based on his mere ra 'ī and zann. Much of it is based on Ibn Al-Qāsim's own ra 'ī, and his $istihs\bar{a}n$, and $qiy\bar{a}s$ on Mālik's sayings.

So, marvel at how these ugly things can be approved by those who are pious or by those who know that Allāh will question them about their words and actions? We seek refuge in Allāh the Almighty from being misguided.

If they deceive by referring to the actions of the judges of Madīnah whom Mālik witnessed, then let everyone with understanding know that a new incident (*nāzilah*) would occur in Madīnah and also everywhere else, and neither the *amīr* nor the judge would rule on it until they consulted the *khalīfah* in Shām. Then it would not be carried out except the one that consulted him, these are only orders from 'Abdullah, Al-Walīd, Sulaymān, Yazīd, Hishām, and Al-Walīd. A few were from the time of 'Umar Ibn 'Abd al- 'Azīz, whose term was brief. This is a well-known matter in the books of *hadīth*.



Section: Those Who Claim That *Ijmā* 'Is The *Ijmā* 'Of The People Of Kūfah

We in general, only speak about matters where the speaker might deceive with an argument that is obscure to the ignorant, or where the truth might be hidden from some scholars due to the subtlety or contradiction of the evidence to him. But as for things which are nothing except mere foolishness and fanaticism, then no. There is no difference between the $ijm\bar{a}$ of the people of Kūfah, the ijmā' of the people of Baṣrah, or the ijmā' of the people of Fustat—if they mean the $ijm\bar{a}$ of those who were there from among the Companions or those who came after them from the $t\bar{a}bi$ $\bar{t}n$, or if they allow them to reach $ijm\bar{a}$ in the third generation. But if we descend from that, there is no difference between the people of Kūfah, the people of Oqania, the people of Otania, and the people of and Fasa and Nasa. And if a person were to be sincere and refrain from deception in religion and from misleading the naive and deluded, and instead occupy himself with the Qur'an, the word of Allāh, and the *bayān* of His Messenger, whom Allāh has made it obligatory upon us to obey, and abandon ta'assub for the sayings of so-and-so and soand-so, it would be safer for his afterlife and further from disgrace in this world. And our success is only by Allah the Almighty.



Section: About Those Who Said, "No One Can Decide After Abū Ḥanīfah"

As for those who say that no can decide after Abū Ḥanīfah, Abū Yūsuf, Zufar Ibn Al-Ḥasan Mal-Ḥasan Mawlā Banū Shaybān, Ḥasan Ibn Ziyād Al-Luʿluʿī.

And the saying of Bakr Ibn Al-'Ala', "No one can decide after the tābi'ūn."

Or the saying of those who say, "No one can decide after Al-Awzā'ī, Sufyān Al-Thawrī, Wakī' Ibn Al-Jarrāḥ Al-Kalbī, and 'Abdullah Ibn Al-Mubārak Mawlā Banū Hanzalah."

These statements of extreme corruption, an obvious plot against religion, misguidance, and lies about Allāh Almighty if they attribute this to Him. Or, they have brought us a new religion of their own invention, which is not part of the religion of Muḥammad in anything.

And as we can see, these are contradicted, corrupted, disgracefully conflicting, and false claims, with none being more valid or less misguided and foolish than the other.

And it is said to Bakr among them: If, according to you and others, it is not permissible for anyone to decide after the year two hundred after the *hijrah*, then how is it permissible for you, who was not born until around sixty years after the year two hundred, to choose Mālik's opinion over those who are better than him from the Companions and the $t\bar{a}bi'\bar{u}n$, or those equal to him among the $Fuqah\bar{a}$ of the regions, or those who came after him, criticizing him and others, who are more knowledgeable than him about the Sunnah and have more correct reasoning, or those like Aḥmad Ibn Hanbal, Isḥāq Ibn Rahūyah, and others?

And it is also said to him: This ridiculous statement of yours, indicating the misguidance, ignorance, and innovation of the one saying it, and which no Muslim before you has ever said, implies that Ashhab, Ibn Al-Mājishūn, Muṭarrif Ibn 'Abdullah, Aṣbagh Ibn Al-Faraj, Saḥnun Ibn Saʿīd,

and Ahmad Ibn Al-Mu'addal who are your a'immah by your acknowledge and were allowed to choose [rulings] until the month of dhū al-hijjah of the year two hundred had passed. But when the crescent of muharram of the year two hundred and one appeared, and the sun set on that day, it suddenly became prohibited for them, without delay, to choose what was permissible for them before that time. Has anyone ever heard been heard anything that is more false than this confusion? And what is the difference between the year two hundred, the year three hundred, the year four hundred, or any other year in history?

And it is said to the Hanafiyyah: Is it not one of the wonders of the world that you permit choice and making statements about the religion of Allāh Almighty based on false assumptions, corrupt opinions, and rulings for which Allāh Almighty has given no permission, to Abū Ḥanīfah, Abū Yūsuf, Zufar, Muḥammad Ibn Al-Ḥasan, and Al-Luʿluʿī, despite their ignorance of the Sunnah and Āthār, and the corruption of their ra i and qiyās, from which they have succeeded only in producing what is false and weak, more fitting for mockery than for seriousness? And they make these corrupt statements an opposition to the Qur'an and the Sunnah of the Messenger of Allah #.

Then they do not allow adherence to the authentic Sunnah brought by Al-Shāfi 'ī, Aḥmad Ibn Hanbal, Isḥāq Ibn Rahūyah, Dāwūd Ibn 'Alī, Abū Thawr, Muhammad Ibn Nasr, and their likes, despite the vast knowledge of them regarding the Sunnah, their understanding of what is authentic and what is weak, and their deep understanding of the sayings of the companions and tābi 'īn. And those among them that believed in qiyās while all of it is false, their qiyās was among the most refined and least prone to apparent corruption, and the most consistent on the 'illah, despite the strict piety of them and the love that Allah Almighty granted them from the believers, the respect of Muslims, and the honor they received from the scholars and the general populace.

If they claim superiority due to the early time of Abū Ḥanīfah, and the Mālikīs claim superiority due to the earlier time of Mālik over the others and the later time of those mentioned.

We say: This is another wonder. We know, and you know, that there was only about thirty years between the last fatwa of Abū Ḥanīfah and the earliest time of Al-Shāfi'ī and only about a year or so between the last fatwā of Mālik and the first $fatw\bar{a}$ of al-Shāfi'ī. It is possible that al-Shāfi'ī gave fatwās during Mālik's lifetime, and al-Shāfiʿī, Abū Yūsuf, Muḥammad Ibn Al-Ḥasan, and Al-Luʿluʿī all issued fatwās while alive, as did Al-Mughīrah, Ibn Kinānah, Ibn Al-Qāsim, Ibn Wahb, Ashhab, and Ibn Al-Mājishūn. Al-Shāfiʿī and Ashhab died in the same month, and Ḥasan Ibn Ziyād died about a year later. Al-Mājishūn and Muṭarrif died many years after them.

What is it that permits some of them to give *fatwās* while others are prohibited, and what allowed Ḥasan Ibn Ziyād and Ibn Al-Qāsim to give *fatwās* but not Aḥmad, Isḥāq, and Abū Thawr? By Allāh, the difference in knowledge between them and the latter is greater than between the East and the West.

Then Dāwūd Ibn 'Alī, Muḥammad Ibn Naṣr, and their likes issued fatwās alongside Aḥmad, Isḥāq, and Abū Thawr. This is how scholars are born and die, year after year, only a night, then a Friday, then a month, and a year, until Allāh inherits the earth and all that is on it. Whoever sets boundaries or restricts making choices and prohibits it thereafter has acted foolishly, lied, invented a misguided religion, and spoken without knowledge. We seek refuge in Allāh Almighty from such.

Allāh Almighty said, "And if you disagree over anything, refer it to Allāh and the Messenger if you believe in Allāh and the Last Day" [4:59].

And He Almighty said, "So why did not a party from every division of them go forth to gain understanding in the religion and to warn their people when they have returned to them that they might be cautious" [9:122].

And He Almighty said, "Follow what has been revealed to you from your Lord and do not follow other than Him, protectors" [7:3].

And He Almighty said, "So ask the people of the message if you do not know" [21:7].

Allāh did not specify any generation or any human. Whoever deviates from this is misguided and among those who are foolish for speaking with confusion and error.

The truth in this matter, which is not allowed to oppose, is that if someone opposes what the Messenger of Allāh acame with from his Lord in the Qurʿān and in the Sunnah, it is not allowed for anyone to follow such a saying, regardless of who says it. Such sayings must be rejected in all cases.

As for the differences of Abū Ḥanīfah and Mālik, it is an obligation upon the Ummah, not merely permissible but an obligation that must not be transgressed. For every $fatw\bar{a}$ given by them, there are essentially two

possibilities: either it is in accordance with the text of the Qur'an and the authentic Sunnah, or it is other than nass of the Our an and Sunnah. If their fatwā, or the fatwā of either of them, is from the text of the Qur'ān or the Sunnah, then that what is followed is only the Qur'an and the Sunnah, not the saying of Abū Hanīfah or Mālik, as Allāh Almighty never ordered us to follow them. Following them is opposing Allāh Almighty. And if their fatwā is from other than the *nass* of the Qur'ān and the Sunnah, it is not permissible for anyone to follow what is not the Qur'an and the Sunnah. And this principle applies to every scholar after the Messenger of Allāh .

'Abdullah Ibn Ṭāwus narrated, "Mu'āwiyah said to Ibn 'Abbās, "Are you on the faith of 'Alī?" He replied, "No, and also not on the faith of 'Uthmān. I am on the faith of the Prophet # ."271

Abū Muḥammad narrated, "Yunus ibn 'Abdullah ibn Mugith told us: Yahyā Ibn 'Ābid told us: Al-Husayn Ibn Ahmad Ibn Abī Khalīfah told us: Abū Jaʿfar Aḥmad ibn Muḥammad Al-Ṭaḥāwī told us: Yūsuf Ibn Yazīd Al-Qarātīsī told us: Sa'īd Ibn Mansūr told us: Hishām told us: From Al-Mughīrah Ibn Migsam who said, "Ibrāhīm Al-Nakha'ī used to dislike it being said, 'The Sunnah of Abū Bakr, and 'Umar,' but rather, 'The Sunnah of Allāh Almighty and the Sunnah of His Messenger ..."

Abū Muhammad narrated, "Humām Ibn Ahmad told us: 'Abdullah Ibn Muhammad Ibn 'Alī Al-Bāji told us: 'Abdullah Ibn Yūnus Al-Murādī told us: Baqi ibn Makhlad told us: Abū Bakr Ibn Abī Shaybah told us: Muhammad Ibn Bashīr told us: 'Abdullah ibn al-Walīd told us: Ubaid ibn al-Husayn said, "The khawārij said to 'Umar Ibn 'Abd Al-'Azīz, 'Do you want to rule us according to the way of 'Umar Ibn Al-Khattāb?' 'Umar ibn 'Abd al-'Azīz replied, 'May Allāh curse them. I do not seek any imām other than the Messenger of Allāh # .""

So these are the companions and the $t\bar{a}bi$ $\bar{u}n$ who the opposers claim to follow?

And if they boast about the large number of followers of Abū Ḥanīfah and Mālik and their followers' positions in the judiciary, we have previously established that there is no hujjah in a large number. It suffices to mention the words of Allāh Almighty, "And if you obey most of those on the earth, they will mislead you from the way of Allāh" [6:116].

²⁷¹ Al-Hilyah by Abū Nu aym 1/329



And Allāh said, "Except for those who have believed and done righteous work, but few are they" [38:24].

And the Messenger of Allāh said, "This religion began as something strange and will return as something strange, so glad tidings to the strangers."

And Allāh warned of the decline in knowledge and the rise of ignorance.

The Prophet said, "Indeed, Allāh does not remove knowledge by removing it from people; rather, He removes it by taking the lives of the learned scholars. Till when no scholars remain, the people will turn to ignorant and take them as authorities. They will be asked and give rulings without knowledge, then they misguide and are misguided."²⁷²

By my life, if knowledge was merely what they are upon, of memorizing the ra \bar{i} of Abū Ḥanīfah, Mālik, and Al-Shāfi \bar{i} (or anyone else), then knowledge would never be at all any more than what it is upon now.

But rather, the truth is what the Messenger of Allāh \cong warned against regarding the decline of knowledge. And that which declined is the adherence to the Qurʻān and Sunnah, and this is undoubtedly that which declined, and its followers are the few strangers (as in the narration). May Allāh make us among them and not remove us from them, and keep us among them and gather us in their company. $Am\bar{\imath}n$, $Am\bar{\imath}n$.

As for them (the *madhāhib*) being appointed as judges, this is more disgraceful and regretful. And protecting the oppression of the rulers and the tyranny of the ministers is neither a commendable trait nor a desired attribute in the Hereafter.

And those judges, we have known them, they were only appointed by the oppressive tyrants from the kings of Banū 'Abbās and Banū Marwān by protecting them and seeking closeness to them with humiliation and disgrace when the good started ceasing to exist and when the calamities spread. And when the *khilāfah* returned to an oppressive monarchy, attacking the people of Islām and taking property by force from the ummah and its order through dominance and injustice.

Those judges are just like those who appointed them, from those who distorted the Sunan of Islām, revived the Sunan of oppression, deceit, and various types of injustice, and loosened the limits of Islām.

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²⁷² Sahīh Muslim 2673

We have known the situations of those judges, whom (the *madhāhib*) take their religion from them and how they were during them witnessing the appearance of bid'ah, such as the miḥnah of the Qur'ān using the sword, whips, imprisonment, chains, and exile. Then all that they used to witness with them, regarding seeking help against them in order to manage the affairs of their kingdom. People like these do not increase, but the origin of that was Abu Yūsuf's dominance over Hārūn Al-Rashīd and Yaḥyā Ibn Yaḥyā's dominance over 'Abd Al-Rahmān Ibn Al-Hakam.

So no one was appointed as a judge in the east or west except those appointed by these two men, and they both cared for them. And people are keen on worldly matters, so the majority became their disciples not out of piety, but in pursuit of the world, the judgeship, issuing fatwās, and acquiring wealth by naming it figh.

This is a matter that no one is able to deny. So the *masses* were forced to resort to them in their judgments, fatwas, and contracts, so those two madhhabs spread across the world. Allāh said, "Beautified for people is the love of that which they desire - of women and sons, heaped-up sums of gold and silver, fine branded horses, and cattle and tilled land. That is the enjoyment of worldly life, but Allāh has with Him the best return" [3:14].

And The Messenger of Allāh said, "Paradise is surrounded by hardships, and Hell is surrounded by desires."273

And whoever opposed them became a target of harm, sought after for his blood, or abandoned and rejected if they are unable to harm him due to his status with the ruler, or because he restrains his tongue and closes his door, as his ability is *taqiyyah* and patience.

Similarly, in North Africa, the predominant practice was the Sunnah and the Qur'ān until Asad Ibn Al-Furāt, a student of Abū Ḥanīfah, prevailed. Then, Saḥnūn Ibn Abī Mālik revolted against them, and their judgment became a succession, competing for the world like strong animals fighting over remains of water, until the best of Banū Hāshim took over the judgments. He was a Mālikī, and they inherited the judiciary just as losses are inherited. So they all returned to the $ra \tilde{i}$ of Mālik, lounging for leadership among the common people only. This is a matter no one is able to deny.

So the disease of the nations before us has approached us, as the Messenger of Allāh said, "Verily, you will follow the ways of those before

²⁷³ Sahīh Al-Bukhārī 3456



us. It was asked, "The Jews and Christians, O Messenger of All $\bar{a}h$?" He said, "Who else?"

This is one of the things the Messenger of Allāh $\stackrel{\text{\tiny def}}{=}$ warned about, and it is among the miracles and his $mu'ijz\bar{a}t$ and his certain evidences. Similarly, these two groups have $taql\bar{\imath}d$ of their rabbis and bishops, who imposed their $ra'\bar{\imath}$ upon them.

Section: A Meaning They Attribute To *Ijmā* '

They also spoke about a meaning they attributed to $ijm\bar{a}$, which is that Muslims may differ on two issues, each having various opinions. Then, certain evidence from the naṣṣ establishes the validity of one opinion in one of the two issues. Based on this, Abū Sulaymān said: "This serves as certain evidence for the correctness of the same opinion in the other issue."

He was opposed in this by his son Abū Bakr, Abū al-Ḥasan ibn al-Mughallis, and the majority of our companions. The statement of Abū Sulaymān in this matter is clearly a mistake, as it is a claim made without certain evidence. This reasoning would mean that if someone is correct in one issue, it would serve as evidence that they are correct in every issue they speak on, which is clearly false. It is difficult to understand how such an obvious and undeniable error occurred to Abū Sulaymān.

They also spoke about another meaning they attributed to $ijm\bar{a}$, which involves the establishment of consensus among people that the ruling for one matter is equivalent to the ruling for another. Then, disagreements arise—some opposing, others permitting both matters, or some assigning a ruling to both. Certain evidence from the nass may then confirm the ruling for one of the two issues. In such a case, they argue that it becomes necessary for the ruling of the second issue to match that of the first, given the correctness of the $ijm\bar{a}$ that their rulings are the same.

If it would be possible to compile all the sayings of all the 'ulamā' of Islām without omitting anything, then this would be a correct ruling.

But, there is no way to compile all of that, and apart from what we have presented, that it must be such a thing that whoever does not adhere to it that they cannot be considered a Muslim.

Even if it were possible to know the saying of a scholar, it is possible that he retracted his saying after the questioner left to someone else's saying. So it has become evident that there is no way at all to encompass all the sayings of all the scholars of Islām on a *fatwā* that deviates from the general

statement we mentioned. And we have clarified this in detail before. We are in abundant sufficiency, and praise be to Allāh, from this burden, and in ample space, free from this strained tyranny, and by the $nus\bar{u}s$ of the Qurʿān and the established Sunnah of the Messenger of Allāh. Therefore, there is no way to find a ruling for which there is no nass on, and praise be to Allāh, Lord of the worlds.

Those speaking in this matter have ruled regarding *musāqāh* (the owner of a garden or orchard agrees with a worker to irrigate and take care of the trees in exchange for a specified share of the fruit produced) and *muzāra'ah* (a landowner provides land to a farmer who cultivates it, and the resulting crop is shared between them according to a pre-agreed ratio, such as a third or a fourth of the harvest) on a one-third or one-fourth share. They said, "The people have differed in this matter, with some prohibiting *musāqāh* or *muzāra'ah* altogether and others permitting it altogether. Then, a text came clearly allowing it at a one-half share. And there is *ijmā* 'that its ruling applies to less than half and more than half is the same in ruling as one-half."

We do not need these difficult intricacies and false claims. Instead, we say: The Messenger of Allāh permitted the landowners to have half in that transaction (contact), and the laborers to have the other half. Therefore, less than half is included by it by necessity based on observation, in what was made for each group from the half.

If the two parties are pleased that one of them leaves part of what is due to them, taking a specified portion and restricting themselves to some of it, then that is permissible, as everyone is in control of such matters, just as if an heir were to gift part of their inheritance to someone who shares in the inheritance or to someone else (this is besides the contract they agreed upon, they cannot make such conditions).

If they say, "Why do you not allow this exact same thing in being pleased with where $rib\bar{a}$ is involved, going against the requirement of equivalence?"

We say: That is not allowed because the text regarding $rib\bar{a}$ concerns equivalence, prohibiting it and threatening us against it. And there is no ruling that came from the naṣṣ on $muz\bar{a}ra$ 'ah, $mus\bar{a}qah$, inheritance, stipulating the wealth of a sold slave, and pollinated fruit, which prohibits other than that, but rather permits stipulations for half and less than half. And if it's voluntary then more or less than half. There has not come that which prevents entering

the permissibility we mentioned by the nass of what is lesser than half or complete.

We often argue with our opponents based on points where there is ijmā' between us, then criticize them for deviating from this consensus to another ruling. For example, we say to those who prohibit water and deem it impure when it has been used by forbidden camels: "The water's color, taste, and smell have not changed." This type of example is quite common.

Those who lack understanding criticized us, saying: "You have combined two severe contradictions: first, using their ijmā' as evidence alongside your rejection of the concept of $ijm\bar{a}$, which you consider a false claim. It could then be said to you: What objection do you have to the Jews when they argue: 'You agree with us on the prophethood of Mūsā, the validity of the Tawrah, and the ruling of the Sabbath, yet you oppose us regarding the prophethood of Muḥammad # ,the validity of the Qur'ān, and the rulings of your religion?""

We respond: We have not contradicted ourselves in this matter. As for our argument against our opponents, citing their agreement with us on a particular ruling and our rejection of their departure from that agreement, we do so because they abandoned what was proven correct for another opinion that lacks decisive evidence from the Qur'an or Sunnah. By this, we clarify their error in speaking about the religion without valid evidence, which is prohibited and censured by the Qur'an and Sunnah.

We do not claim *ijmā* 'in these instances, nor do we affirm it. Instead, we merely highlight to the opponent their inconsistency in denying what they had already agreed upon with us, meaning their agreement on a specific matter. This distinction clarifies the difference between making a false claim and what we argue.

As for what we reject from the Jews, it is the opposite of the issue we just addressed. The Jews refuse to acknowledge what has been definitively proven as true through clear evidence, even though this evidence is stronger than their claim of consensus with us on certain matters. We criticize the aforementioned individuals for speaking without valid evidence and for abandoning what clear evidence had proven to be true. Similarly, we reject the Jews for persisting in what has been shown to be false through definitive evidence.

We adhere to the path of truth and the road to salvation, standing firm on clear evidence when it is established and following it wherever it leads. Praise be to Allāh, the Lord of all worlds. With Him lies success.

They also discussed a meaning they attributed to $ijm\bar{a}$, which is as follows: They state that if people differ on two or more opinions regarding an issue, and nass (text) from the Qur'ān or Sunnah affirms the validity of one of these opinions, invalidating the others, then subsequent branches of that issue arise. They argue that the ruling for these branches must align with the opinion validated by the nass in the original matter.

They compared this to the ruling of the 'āqilah (those responsible for paying blood money). Some accepted the concept of the 'āqilah, while others were unaware of it, including 'Uthmān al-Battī. The naṣṣ affirmed the view of those who accepted it. When determining who qualifies as the 'āqilah, they claim it is obligatory to consider those upon whom there is consensus regarding their inclusion in the 'āqilah—these individuals are deemed part of it. As for those whose inclusion is disputed, they are not to be considered part of the 'āqilah.

Our stance here aligns with what we mentioned earlier: if it were possible to definitively establish $ijm\bar{a}$ on this matter, it would serve as conclusive evidence. However, there is no way to enumerate all the individuals involved or document all their opinions, as we previously clarified.

We are fortunate, and praise be to Allāh, to be free from entanglement in such oppressive complexities. Instead, we adhere to what our Lord, the Most Exalted, and His Messenger $\stackrel{\text{def}}{=}$ have made clear to us through nass. For us, there is no religion except what is established in the nass, and anything beyond it is not part of Allāh's religion nor from Him, the Most Exalted.

And the Prophet \cong wrote to every single bațn (level of kinship that is below the tribe and above the clan or sub-clan) the payment of the ' $uq\bar{u}lah^{274}$. So this implies that the ' $\bar{a}qilah$ are the bațn of the killer on accident, those that belong to him, till he reaches the tribe which he stands at, and in this matter for everything.

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²⁷⁴ Şahīh Muslim 1507

Section: And They Differed If The People Of Innovation Can Be Part Of *Ijmā* '

We have clarified before, and all praise is for Allāh the Lord of the worlds that $ijm\bar{a}$ cannot happen except on $na\bar{s}\bar{s}$ transmitted about the Prophet, \approx not on falsehood which has not come from Allāh, from any $ra\ \bar{i}$, or any $qiy\bar{a}s$, as this is the case then the question remains, "Do we accept the transmission of $ahl\ ul$ - $ahw\bar{a}$ ' and their narrations?"

Then our saying in this and Allāh is the source of strength is that whoever witnesses with his heart and tongue that there is no deity worthy of worship in truth except Allāh and that Muḥammad is the Messenger of Allāh and that everything he came with is the truth and that he is free from every religion other the religion of Muḥammad if, then he is a Muslim Muʿmin, and his transmission is obligatory to be accepted, if he memorized what he transmitted. As long as he does not go with his *īmān* to *kufr* or *fisq*.

The people of innovations ($ahw\bar{a}$ ') and those of every saying that contradicts the truth, and those of every action that contradicts the truth, are Muslims who are mistaken as long as the hujjah has not been established against them. None of this affects their $\bar{\imath}m\bar{a}n$ or their ' $ad\bar{a}lah$. They are indeed rewarded for what they believe and act upon if they intend goodness, and they are not held accountable for their mistakes.

For Allāh, the Exalted, says, "There is no blame upon you for what you have done wrong, but for what your hearts intended" [33:5] Their transmission are obligatory to be accepted just as they are, and so is their testimony, until *hujjah* is established against them from the Qurʿān or Sunnah, if it is not specific or abrogated.

Whoever persists in adhering to religion contrary to Allāh's or His Messenger's $\stackrel{\text{\tiny{descender}}}{=}$ or utters it accordingly is a $k\bar{a}fir$ and apostate, as Allāh says: "But no, by your Lord, they will not believe until they make you judge concerning that over which they dispute among themselves and then find



within themselves no discomfort from what you have judged and submit in [full, willing] submission" [4:65].

And if they adhere to the religion with their hearts and speech but persist in acting contrary to the Qur'ān and Sunnah, they are ruled sinners in their actions, but *mu'min* in their hearts and words.

And it is not allowed to accept the transmission of a $k\bar{a}fir$ and also not their testimony. Allāh says, "O you who have believed, if there comes to you a disobedient one with information, investigate" [49:6] .

Some of the *Salaf* have made a difference between the people of innovation who are callers towards the innovation/anything false and the non-caller towards the innovation/anything false.

This is a grave mistake and a saying without certain evidence. The one who opposes the truth does not cease to be excused as there is no *ḥujjah* established on him or not excused because *ḥujjah* is established against him. If they are excused, then the caller and the non-caller towards it are the same; both are excused and rewarded. If they are not excused because the *ḥujjah* has been established against them, then the caller and the non-caller towards it are the same; both are either *kuffār* as previously stated or sinners as described before (if they believe and utter the truth but oppose it by action). And Allāh is the source of strength.

And there is no difference between those who oppose the truth by 'aqīdah or a fatwā, as Allāh and His Messenger have not made a difference between them. Allāh only said, "Follow what has been revealed to you from your Lord" [7:3] So Allāh made it general not specific.

Some of them said, "The Companions differed in *fatwās*, yet they did not rebuke one another for that, but rather rebuked those who opposed them in that matter."

We say: It is not as you claim; they only did not reject against the one whom the *hujjah* is not established against in the issue only. And they rebuked, with severe rejection against the one that opposes after the *hujjah* is established against him. How could they not have rebuked them, given that they struck with swords those who opposed them. What stronger rebuke could there be than this? Did not 'Umar say, "By Allāh, the Messenger of Allāh will not die until the last of us dies, and he will return; I will cut off the hands and feet of men?"²⁷⁵

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²⁷⁵ Şaḥīḥ Al-Bukhārī 3667

And did this not harm his state of being upright as he said that by mistake, then returned to the truth when he heard the Qur'an, "Indeed, you will die, and indeed, they will die" [39:30]?

And the one who persists in this statement after the hujjah has been established against him is a kāfir and is among the ghāliyah (extremists) of the sabā'iyyah.

Did not Ibn 'Abbās say, "Do you not fear that Allāh will cause the earth to swallow you up, I tell you the Messenger of Allāh said, and you say 'Abū Bakr and 'Umar said.'"

And did not Ishaq Ibn Rahuyah say, as narrated about him by Muḥammad Ibn Naṣr Al-Marwazī, that he heard him say, "According to anyone who a narration is authentic from the Prophet ## and then opposes it (meaning by belief) then he is a kāfir"?²⁷⁶

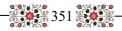
Ishāq spoke the truth, may Allāh have mercy on him, and that is what we say. It has also been narrated from 'Umar that he killed a man who refused to accept the judgment of the Messenger of Allah and preferred the judgment of 'Umar.

And how would it have been if 'Umar, Ibn 'Abbās and Ishāq met the one whom we say to, "Allāh has said so-and-so and his Messenger # had said so-and-so." But then he says, "Sahnun refused that." And the one who we say to, "This is the ruling of the Messenger of Allāh." Then he says, "I am not in need of that, what I need is the saying of the 'ulamā'. And the one that says to us, "If I saw my shuyūkh turn their backs to the qiblah in their prayer, I would not have prayed towards the qiblah," by Allāh there is no bid'ah from ahl ul-bid'ah anything worse than this.

And I wonder, if these people truly believe in Allah, in the Resurrection, and that they will be held accountable, and that Allah will say to them, "Did I not order you to follow My revealed Book and My sent Prophet? Did I not forbid you from following your forefathers and leaders? Did I not order you to refer what you disagreed upon back to Me and to My Messenger? And I warned you in advance," what have they prepared as an answer for that dreadful situation and that terrible standing? By Allah, their regret will surely last long when regret will no longer benefit them, as if it has already approached and arrived.

²⁷⁶ Al-Ḥujjah Fī Bayān Al-Maḥajjah 2/425 | Al-Risālah Al-Wāfiyah by Al-Dāni 181

We ask Allāh to grant us the gratitude for what He has bestowed upon us by allowing us to follow His words and the judgment of His Messenger $\stackrel{\text{\tiny \#}}{=}$, and to make following anyone other than Him and His Messenger $\stackrel{\text{\tiny \#}}{=}$ hateful to us. We ask Him to let us die upon this and to guide those who are ignorant and misguided back to the truth. $\bar{A}m\bar{\imath}n$, $\bar{A}m\bar{\imath}n$. And may Allāh's blessings be upon our master Muḥammad, the noble Prophet.



Chapter Twenty-Two: On *Istiṣḥāb ul-Ḥāl*

If a nass from the Qur'an or an authentic Sunnah establishes a ruling on a matter, and then someone claims that this ruling has been changed or has been invalidated because the matter that is ruled has changed from some of its situations, or because of a change in time or place, then the one claiming that the ruling has changed or has been invalidated because of these reasons must provide certain evidence from nass of the Qur an or authentic Sunnah of the Messenger of Allāh # that this ruling has indeed changed or been invalidated. If they produce such certain evidence, their claim is valid; if they do not, their claim is invalid, and it is obligatory upon everyone to remain adherence to what is in the established *nass* as long as the name of the ruled matter can be applied, because that is the certainty, while the claim of change is merely a claim and ruling not permitted by Allah, so both are rejected and false until a nass establishes them. And those that oppose us in this are implied to seek every single moment evidence for the obligation of salāh, zakāh, the validity of their marriage to their wives, and the validity of their ownership of what they possess.

And it is said to the one that opposes this: Tell us, do you judge by another ruling than your own, or do you refrain from judging altogether, neither by the ruling you were upon nor by another?"

If they say, "I refrain," it is said to him, Your refraining is a judgment for which no *naṣṣ* has come to you, and your invalidation of a ruling from a *naṣṣ* you have already acknowledged as valid is a grave mistake, and neither is permissible.

If they say, "Rather, I establish a new ruling," it is said to them: You have invalidated Allāh's ruling and created a ruling for which Allāh has given no permission, and both are among the destructive calamities. We seek refuge in Allāh from all of that.



And it is said to them, concerning every ruling they adhere to: Perhaps this text has been abrogated, or perhaps there is something specific that limits applying this as general, which has not reached you.

And it is said to them: Perhaps you have killed a Muslim or committed adultery, so the *hadd* or retaliation is upon you.

If he says, "I am upon innocence until something is proven against me," then he has abandoned his corrupt method, and he returns to the truth, and contradicted himself by not following this approach in everything.

They are also implied not to inherit from their deceased relatives, for perhaps they have apostatized, or perhaps they have given all their wealth in charity, or perhaps they have incurred debts that fully consume their estate. So they must provide evidence of their deceased relatives' innocence at the time of death from all these possibilities. That what they are implied is beyond the capacity of the skin of a thousand camels. And they are also implied not affirm the continuation of a prophet's prophethood until they continuously provide evidence for the validity of his prophethood.

As for us, we do not move from one ruling to another except with when certain evidence is established. Similarly, we say to anyone who claims prophethood, like Musaylimah, Al-Aswad, and others: We knew you as non-prophets, so you remain upon the falsity of your claim until what proves it becomes valid."

And similarly, we say to the one who claims that so-and-so's blood has become permissible due to apostasy or adultery, "We have known him to be innocent of all that, so he remains in a state of safety until the evidence for what you claim is established." And similarly, we say to the one who claims that so-and-so, the upright person, has become a sinner, or that so-and-so, the sinner, has become upright, or that so-and-so, the living person, has died, or that such-and-such a woman has married so-and-so, or that so-and-so has divorced his wife, or that so-and-so has lost ownership of what he once possessed, or that so-and-so has acquired ownership of something he did not previously own. And in this manner for everything what we were upon until its opposite is proven.

Indeed, a group of people came up with these absurdities in a few instances where they were mistaken, then they supported their mistake while it invalidates all 'aql and rationality. And that is like their saying, "Verily water, if impurity has touched the water, it has become impure, or if one

doubts after certainty about their ablution, then ablution is required again," and similar matters.

They also said, "The water, which Allah has ruled to be pure, becomes impure when impurity touches it."

So we say to them: And similarly, the man whose blood Allāh has forbidden (to shed) was not the young man and did not shave his head and had not yellowness from sickness, which he did not have before, so change his ruling because of a change in situation.

And they said, "He must not pray except with certainty of purity that is not followed by doubt."

We say: Then prohibit also a man who doubts whether he sold his slave-girl or not from having intercourse with her or owning her due to his doubt about the transfer of ownership, and apply the *hadd* on everyone whom you doubt as to whether he committed adultery or not.

We have mentioned their objection to the matter of the Jews saying, "You have agreed with us on the validity of the prophethood of Mūsā," we clarified that we did not move to the acknowledgment of the prophethood of Muhammad sexcept by certain evidences existing clearer than the proofs for Mūsā, without which we would not have followed him.

We do not deny moving from a ruling that the Our an or Sunnah has obliged when another text comes to transfer us from it. What we deny is only moving away from it without a text that obliges transferring away from it, and instead of that merely because of a change in one of its situations or a change in time or place. This is the falsehood we reject.

The Mālikīs said, "If one doubts whether he has divorced his wife or not, there is nothing upon him." They were correct in this. But then they said, "But if he is certain that he has divorced her and then doubts whether it was once, twice, or three times, she is divorced thrice."

And they said, "If one doubts whether he has divorced one of his wives or not, there is nothing upon him, but if he was certain that he divorced one of them but does not know which one, then all of them are divorced."

So they made a difference between that what has no difference between them, making a claim devoid of certain decisive evidence.

If they say, "Here he is certain of the divorce."

We say: Yes, and he is also doubtful about the increase beyond a single divorce. And doubt is false like the remaining of what we previously



mentioned. And likewise there is no woman among his wives he is certain that he divorced them, so you have entered that what we reject of our opponents of moving rulings by *zunūn*.

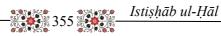
Rather they have entered into a certain falsehood and make $har\bar{a}m$ the certain/decisive $hal\bar{a}l$ from his remaining wives which he did not divorce without doubt. And making $hal\bar{a}l$ the certain/decisive $har\bar{a}m$ as they allow private parts from women as they allowed the private parts of those he did not divorce to the people.

They are implied based on this that if they find men among whom a murderer is mixed with, whom they do not know specifically, or a married adulterer whom they do not know specifically, that they must kill them all—indeed, and that they must carry the sword against the people of a city in which they are certain there is a deliberate murderer whom they do not know specifically. And that they must cut off the hands of all its inhabitants if they are certain there is a thief among them whom they do not know specifically, and prohibit all the food of a land if they are certain that there is forbidden food among it which they do not know specifically, and stone every married man and woman in the world because among them is one who has committed adultery without doubt. And they are implied, regarding someone who has given in charity some of his wealth and then forgets its amount, that he must give all his wealth in charity. And such are a lot, so the corruption and invalidity of this statement has become apparent with certainty, without doubt.

If it is said, "Then what is the evidence for the continuation of the ruling with the changing of times and places?"

We say, with Allāh the Exalted's guidance: The certain decisive evidence is the sound transmission from every $k\bar{a}fir$ and muslim that the Messenger of Allāh, \cong came to us with this religion. And he said that he is the last of the prophets and the seal of the messengers, and that his religion is obligatory upon every living person and everyone who will be born until the Day of Resurrection throughout the earth.

So, it is established that there is no meaning to the changing of times, places, or circumstances. What has been established remains established forever, in every time, place, and circumstance, until a *naṣṣ* comes transferring its ruling to another time, place, or circumstance.



Similarly, if a *nass* comes obligating a ruling in a certain time, place, or circumstance and explains that to us in the text, it is obligatory not to exceed the nass. That ruling is not then obligatory outside that time, place, or circumstance.

Allāh the Exalted said, "These are the limits set by Allāh, and whoever transgresses the limits of Allāh has certainly wronged himself" [65:1].

And the Messenger of Allah, sordered that whoever has not completed his prayer that he must continue praying until he is certain of completion and in doubt of any addition. Because he is certain that he has prayed what he is obliged, so he must complete it. This is the explicit nass of our position.

However, if the name changes, then the ruling changes without a doubt, such as khamr becoming vinegar or being made into vinegar, because khamr alone is harām, and vinegar is not khamr. Similarly, when excrement turns into soil, its previous ruling is invalidated. Also, the milk of pigs, donkeys, and dead animals, which is consumed by chickens or suckled by goats—once the name of the dead animal, milk, or wine changes, it being harām is void.

Anyone who makes *harām* something to which the name of what was harām does not apply is no different from someone who makes halāl something to which the name of what was harām does apply. Both are transgressing the limits of Allah, the Exalted, "These are the limits set by Allāh, and whoever transgresses the limits of Allāh has certainly wronged himself" [65:1]. This is a comprehensive rule for all matters of dispute. Whoever adheres to it has succeeded, and whoever opposes it has perished and caused destruction. With Allah the Exalted is the success.

Any caution (*iḥtiyāt*) that leads to an addition in religion, without the permission of Allah the Exalted, or leads to a reduction from it, or to changing anything in it, is not iħtiyāt nor is it good. Rather, it is destruction, misguidance, and a ruling not sanctioned by Allāh the Exalted. And *iḥtiyāt* is only adherence to the Qur'an and the Sunnah.



Section: The Falsehood Of All Contracts ('*Uqūd*), Covenants ('*Uhūd*), And Conditions (*Shurūt*) Except What Is Obliged By The Qur'ān And The Authentic Sunnah

Regarding contracts (' $uq\bar{u}d$), covenants (' $uh\bar{u}d$), conditions ($shur\bar{u}t$), and promises (wa'd), the origin (asl) of the $ikhtil\bar{a}f$ about it revolves around two positions on it, and the truth lies in one of them. Anything outside of these two is mere confusion and contradiction, falsehood where no consistent statement can be established by its claimant.

The two mentioned positions are: either that all contracts, covenants, conditions are binding and true, except what has been invalidated by specific *naṣṣ*, or that all contracts, covenants, conditions are invalid and non-binding in general, except for what has been made obligatory by specific *naṣṣ*.

As for what has been permitted by a *naṣṣ*, the argument of those who say that all contracts in general are binding, except for what a *naṣṣ* has invalidated, is based on Allāh's saying, "And fulfill the covenant; indeed, the covenant will be questioned" [17:34].

And the saying of Allāh, "O believers! Why do you say what you do not do? Greatly hateful in the sight of Allāh is that you say what you do not do" [61:2-3].

And Allāh the Almighty also said, "And those who are to their trusts and covenants attentive" [23:8].

And Allāh also said, "And He misleads not except the sinners who break the covenant of Allāh after contracting it" [2:26-27].

And He said, "And whenever they make a covenant, a party of them throws it away" [2:100].

And He also said, "Righteousness is not that you turn your faces toward the east or the west, but [true] righteousness is in one who believes in

Allāh, the Last Day, the Angels, the Book... and those who fulfill their promise when they promise" [2:177].

And He said, "Yes, whoever fulfills his commitment and fears Allāh - then indeed, Allāh loves the righteous. Indeed, those who exchange the covenant of Allāh and their [own] oaths for a small price will have no share in the Hereafter, and Allāh will not speak to them or look at them on the Day of Resurrection, nor will He purify them, and they will have a painful punishment" [3:76-77].

And He also said, "And he who fulfills that which he has promised Allāh – He will give him a great reward" [48:10].

And He said, "O you who have believed, fulfill the contracts" [5:1].

And He said: "And if you fear treachery from a people, throw [their treaty] back to them on equal terms" [8:58].

And He also said, "Those Who fulfill the covenant of Allāh and do not break the contract" [13:20].

And He said: "And do not exchange the covenant of Allāh for a small price" [16:95].

And He also said, "And fulfill the covenant of Allāh" [6:152].

And He said, "They fulfill [their] vows and fear a Day whose evil will be widespread" [76:7].

And He said, "And whatever you spend of expenditures or make of vows – indeed, Allāh knows of it" [2:270]

And He also said, "And among them are those who made a covenant with Allāh, [saying], 'If He should give us from His bounty, we will surely spend in charity, and we will surely be among the righteous.' But when He gave them from His bounty, they were stingy with it and turned away while they refused. So He penalized them with hypocrisy in their hearts until the Day they will meet Him – because they failed Allāh in what they promised Him and because they [habitually] used to lie" [9:75-77].

And He said, "And mention in the Book [the story of] Ishmael. Indeed, he was true to his promise, and he was a messenger and a prophet" [19:54].

And they mention the saying of the Prophet , "Whoever possesses these four traits is a pure hypocrite, and whoever has any one of these traits carries a sign of hypocrisy until they abandon it: When entrusted with something, they betray the trust. When they speak, they lie. When they make



a promise, they break it. When they engage in a dispute, they behave in an inappropriate, harsh, and offensive manner."²⁷⁷

And the saying of the Prophet \$\square\$, "The signs of a hypocrite are three, even if they pray, fast, and claim to be Muslim: when they speak, they lie; when they make a promise, they break it; and when they are trusted, they betray." 278

And the saying of the Prophet , "When Allāh gathers the first and the last on the Day of Resurrection, a banner will be raised for every betrayer, and it will be said, 'This is the betrayal of so-and-so, the son of so-and-so." 279

And the saying of the Prophet *, "For every betrayer, a banner will be raised by their posterior on the Day of Resurrection." 280

And the saying of the Prophet \$\sim\$, "Every one who breaks a covenant will have a flag by his buttocks on the Day of Resurrection. It will be raised higher according to the nature of his breach. Behold, there will be no greater a sin with respect to breaking the covenant than that of a ruler who breaks his covenant with the Muslim masses." ²⁸¹

And the saying of the Prophet \$\mathscr{\pi}\$, "Fight in the name of Allāh and in the way of Allāh. Fight against those who disbelieve in Allāh. Make a holy war, do not embezzle the spoils; do not break your pledge." 282

And the saying of the Prophet , "The most worthy of conditions to be fulfilled are those by which you permit the private parts (marriage)." And what Abū Rāfi anarrated, "Quraish sent me to the Prophet, and when I saw the Prophet, Islām entered my heart. I said, 'O Messenger of Allāh, I will never return to them.' The Prophet said, 'I do not break covenants, nor do I detain messengers, so return to them. If the same feeling remains in your heart, then come back.' I went back and later returned and embraced Islām." 284

²⁷⁷ Şaḥīḥ Al-Bukhārī 34 | Şaḥīḥ Muslim 58

²⁷⁸ Şaḥīḥ Al-Bukhārī 33, 2682, 2749, 6090 | Şaḥīḥ Muslim 59, 2631

²⁷⁹ Şaḥīḥ Al-Bukhārī 6177 | Şaḥīḥ Muslim 1735

²⁸⁰ Sahīh Muslim 1738 | Musnad Ahmad 3/35-36

²⁸¹ Şahīh Muslim 1738

²⁸² Sahīh Muslim 1731

²⁸³ Sahīh Al-Bukhārī 2721

²⁸⁴ Sunan Abī Dāwūd 2758 | Sunan Al-Kubrā by Al-Nasā'ī 8674

Marwan and Al-Miswar Ibn Makhraj narrated, "When the Prophet # wrote the treaty with Suhail Ibn 'Amr during the Treaty of Hudaybiyyah, one of the conditions was that anyone from the Quraish who came to the Prophet must be returned to them, even if they were Muslim. The Prophet returned Abū Jandal, the son of Suhail, to his father on that day."285

And Al-Miswar Ibn Makhramah narrated, "The Prophet set out during the time of hudaybiyyah and then returned to Madīnah, Abū Baṣīr came to him with a man from the Quraysh, meaning that the Quraysh had sent men to bring him back. The Prophet handed ## him over to two men. They set out with him, and when they reached dhū al-hulayfah, they stopped to eat some of their dates. Abū Baṣīr said to one of the men, 'By Allāh, I see your sword, O so-and-so, it looks good.' The man took it out and said, 'Indeed, I have used it.' Abū Baṣīr said, 'Let me see it.' He took it from him and struck him with it until he killed him, and the other man fled until he reached Madīnah and entered the mosque, running. The Prophet said, 'This man has seen something terrifying' The man said, 'By Allāh, my companion has been killed, and I too will be killed!' Then Abū Baṣīr came and said, 'O Messenger of Allāh, Allāh has fulfilled your trust, you returned me to them, but Allāh has saved me from them.' The Prophet said, 'Woe to his mother, what a kindler of war he would be if he had companions!' When Abū Baṣīr heard that, he knew the Prophet # would send him back to the Quraysh, so he fled until he reached the seashore. Abū Jandal also escaped and joined Abū Baṣīr, and soon a group of others gathered with them."286

And Hudhayfahh Ibn Al-Yaman narrated, "Nothing prevented me from being present at the Battle of Badr except this incident. I set out with my father, Husayl, to participate in the battle, but we were captured by the disbelievers of Quraysh. They asked, 'Do you intend to go to Muḥammad?' We replied, 'We do not intend to go to him; we only wish to return to Madīnah.' They then took a covenant from us in the name of Allāh that we would return to Madinah and not fight on the side of Muhammad. So, we came to the Messenger of Allāh and reported what had happened. He said, 'Both of you should proceed to Madīnah; we will fulfill the covenant made with them and seek Allāh's help against them."287

²⁸⁵ Şaḥīḥ Al-Bukhārī 4180, 4181

²⁸⁶ Sunan Abī Dāwūd 2765, 2766

²⁸⁷ Sahīh Muslim 1787



And Abū Muḥammad narrated —» Muḥammad Ibn Saʿīd —» Nabāt —» Aḥmad Ibn ʿAwn Allāh —» Qāsim Ibn Aṣbagh —» Muḥammad Ibn ʿAbd al-Salām al-Khushanī —» Muḥammad Ibn Bashār —» Muḥammad Ibn Jaʿfar —» Shuʿbah —» Abū Isḥāq al-Sabīʿī and al-Ḥakam Ibn ʿUtaybah that Ḥudhayfahh Ibn al-Husayl Ibn al-Yamān and his father were captured by the polytheists, who took a pledge from them not to witness the Battle of Badr. They asked the Prophet sabout this, and he permitted them not to attend."

'Abdullah Ibn 'Āmir narrated, "One day, my mother called me while the Messenger of Allāh was sitting in our house. She said, 'Come here, and I shall give you something.' The Messenger of Allāh asked her, 'What did you intend to give him?' She replied, 'I intended to give him some dates.' The Messenger of Allāh then said, 'If you had not given him anything, a lie would have been recorded against you.'"²⁸⁸

And the saying of the Prophet, "" "Allāh says, 'I will be against three persons on the Day of Resurrection: One who makes a covenant in My Name but proves treacherous. One who sells a free person (as a slave) and eats the price. And one who employs a laborer, gets the full work done by him, but does not pay him his wages."" 289

And the saying of the Prophet, "The best of you is my generation, then those who come after them, then those who come after them. After them people will come who will make promises but not fulfill them, and who will be treacherous and untrustworthy." ²⁹⁰

Ibn 'Umar narrated, "'Umar asked the Prophet, "I vowed in the Pre-Islāmic period of ignorance to stay in i'tikāf for one night in *masjid al-ḥarām*.' The Prophet said to him, 'Fulfill your vow.'"²⁹¹

And the saying of the Prophet $\stackrel{\text{\tiny{def}}}{=}$, "The Muslims are on their conditions." ²⁹²

And a saying attributed to the Prophet $\stackrel{\text{\tiny{def}}}{=}$, "The promise of a Muslim is obligatory." 293

²⁸⁸ Sunan Abī Dāwūd 4991

²⁸⁹ Şahīh Al-Bukhārī 2227, 2270

²⁹⁰ Şaḥīḥ Al-Bukhārī 3650

²⁹¹ Sahīh Al-Bukhārī 2032, 2043, 2042, 3144, 4320

²⁹² Sunan Abī Dāwūd 3594

²⁹³ Al-Marāsīl by Abū Dāwūd 523

And that the Prophet said, "Do not make a promise to your brother and then fail to fulfill it, for that creates enmity between you and him."294

And a saying attributed to the Prophet #, "If someone says to a child, 'Come here, I have something for you,' and then does not give him anything, it is a lie."295

So they say, "These are *nusūs* that oblige what we said, except if there is a nass with takhṣīṣ of anything from its 'umūm, then it is excluded and what is other than that remains obligatory to be fulfilled.

We say: And we find those that invalidate every single 'aqd, shart, 'ahd, except for those that have been mentioned in text by their exact wording, that they use as evidence the verse, "This day I have completed for you your religion" [5:3].

And the verse, "Whoever transgresses the limits of Allāh, they are the transgressors" [2:229].

And the verse, "But whoever disobeys Allah and His Messenger and exceeds their limits will be cast into Hell, to stay there forever" [4:14].

And the saying of the Prophet # , "As for what follows, what is the matter with people who stipulate conditions that are not in the Book of Allāh? Any condition that is not in the Book of Allah is invalid, even if it is one hundred conditions. The Book of Allāh is more deserving (to be followed), and the condition of Allāh is stronger."296

And the saying of the Prophet, "What is the matter with people who stipulate conditions that are not in the Book of Allāh? Whoever stipulates conditions that are not in the Book of Allah, then they are not valid for him, even if he sets one hundred conditions."297

And they say, "These verses and these narrations are definitive evidences in invalidating every covenant, every contract, every promise, and every condition that is not ordered by its wording in the Book of Allāh, because contracts, covenants, and promises are all conditions, and the word 'condition' applies to all of that."

We say: And also, it is said to the one who make obligatory the fulfillment of a contract, covenant, condition, or promise that is not in the text

²⁹⁴ Al-Jāmi by Ibn Wahb 208, 1/306

²⁹⁵ Musnad Aḥmad 2/452 | Al-Jāmi'; by Ibn Wahb 514, 2/610

²⁹⁶ Sahīh Muslim 1504

²⁹⁷ Sahīh Al-Bukhārī 2155

of the Qur'ān or in the established Sunnah of obligating its contract and carrying it out: We know by necessity that every contract, covenant, condition, or promise undertaken by someone for another does not cease from these two options for which there is no third. Either it is ordered by the *naṣṣ* of the Qur'ān or the Sunnah to fulfill it and carry it out, and if that is the case, we do not disagree with you in fulfilling and obligating that. Or it is not mentioned in the text of the Qur'ān or the Sunnah, and in this we disagree.

We now say to you: If that is the case, then it by necessity does not cease to be of four types for which there is no fifth: Either it is permitting something that Allāh Almighty has prohibited in the Qurʿān or through the tongue of the Messenger of Allāh and this is a grave matter that is not allowed, as Allāh Almighty said, "And they do not forbid what Allāh and His Messenger have forbidden, and do not follow the religion of truth from" [9:29] And we ask them at that point, concerning the one who has obliged himself in his covenant, condition, contract, and promise to allow swine meat, or incest, or murder: if he permits that, he has disbelieved; and if he distinguishes between any of that, it is contradiction, foolishness, and an unjust ruling in the religion.

Or, he obliges himself to prohibiting what Allāh has permitted in the Qur'ān or through the tongue of His Messenger, $\stackrel{\text{def}}{=}$ and this is a grave matter that is not allowed, as Allāh Almighty said, "O Prophet do not prohibit what Allāh permitted you" [66:1]. And we ask them then about the one that prohibits water, bread, dates, marriage and other matters that are permissible. So it is established that the one making $hal\bar{a}l$ the $har\bar{a}m$ is the same as the one making the $har\bar{a}m$ $hal\bar{a}l$.

Or, he obliges an omission of what Allāh obliges in the Qurʿān or on the tongue of the Prophet, this is a grave matter that is not allowed, and we ask them then about the one that carries out in his 'ahd, 'aqd, shart the omission of the prayers, omission of the fasting in the month of Ramaḍān and others like that, whoever allows this has disbelieved.

Or, he obliges something on himself, that which Allāh did not oblige him, this is grave and not allowed. And we ask them about the one that obliges a sixth prayer, a *ḥajj* to other than Makkah or in months other than the months of *ḥajj*. All of these manners are transgression of the limits of Allāh, an exit from Islām, and the one making any difference between these speaks in the religion with falsehood and we seek refuge in Allāh the Exalted from that.

As everything we mentioned is established, then nothing remains except talking about the verses which the first group uses and the narrations they claim as evidence and clarifying their rulings, so that, by the help and grace of Allāh, this becomes consistent with them. For the religion is unified, without contradiction in it. Allāh, the Exalted, says, "Do they not then reflect on the Qur'an? If it had been from other than Allah, they would have found within it much contradiction" [4:82].

We say, and we seek Allāh's assistance: As for all that they mentioned, there is no valid *hujjah* in any of it for them.

Regarding the statement of Allah, the Exalted, "And fulfill every covenant. Indeed, the covenant will be questioned about" [17:34].

And the verse, "It is most hateful to Allah that you say what you do not do" [61:3].

And the verse, "And they who are to their trusts and their promises attentive" [23:8].

And the verse, "Is it not (the case) that every time they make a covenant, a party of them throws it aside?" [2:100].

And the verse, "And those who fulfill their promise when they promise" [2:177].

And the verse, "Whoever fulfills his commitment" [3:76].

And the verse, "And he who fulfills that which he has promised Allāh" [48:10].

And the verse, "Fulfill the contracts" [5:7].

And the verse, "They fulfill (their) vows" [76:7].

And the verse, "And whatever you spend of expenditures or make of vows" [2:270].

And the verse, "Indeed, he was true to his promise" [19:54]

And the two narrations, "Fulfill your vow" and the narration criticizing those who make vows and do not fulfill them, and the narration about whoever gives by my name and then betrays. These are all only comprehensive general texts, for which there are other texts that clarify that all of these are not general but apply to some covenants, some contracts, some vows, and some conditions. This is in the statement of the Messenger of Allāh, "There is no vow in disobedience to Allāh the Exalted, nor in what a person does not own."298

²⁹⁸ Sahīh Muslim 1641



And his statement , "Whoever vows to obey Allāh, let him obey Him; and whoever vows to disobey Allāh the Exalted, let him not disobey Him." 299

Along with what we have mentioned of the saying of the Prophet, "Any condition that is not in the Book of Allāh is invalid."

So it is established by these $nu\bar{s}u\bar{s}$ that those verses and those two narrations are only about someone who makes a condition, vow, contract, or covenant on that what is obliged in the Qur'ān or Sunnah by their wording only.

The opponents here have agreed with us that if someone vows, contracts, covenants, or conditions to commit adultery, or disbelieve, or unjustly kill a Muslim, or take property by false means, or abandon prayer, it is not permissible for him to fulfill any of that because it is disobedience.

And there is no difference between this and making a condition, covenant, or contract to omit a prescribed *ḥadd*, nullify a right, or prohibit something permissible. Whoever makes a difference between these it is invalid, contradictory, and manipulates the religion with falsehood. So, the *ishkāl* in this matter is completely resolved, and praise is to Allāh, Lord of the Worlds.

So the saying, "Making conditions, contracts, covenants are all allowed except if it does not permit what is prohibited." This is a truthful saying but by this falsehood is intended because as we said before: obliging what is permissible is prohibited, what is permissible remains permissible, cannot be made obligatory.

Likewise, Allāh the Exalted says, "And do not say, concerning what your tongues assert falsely, 'This is *ḥalāl* and this is *ḥarām*,' to invent falsehood about Allāh. Indeed, those who invent falsehood about Allāh will not succeed" [16:116].

This is the utmost clarity in the correctness of our statement, and praise be to Allāh, Lord of the Worlds. And with certainty, we know that whoever prohibits himself from marrying another woman alongside his wife, or prohibits from having a concubine, or prohibits from moving her (his wife), or from traveling away from her, has prohibited what Allāh the Exalted has made permissible for him and what Allāh has obliged him. For He says, "Then marry of your choice women, two or three or four" [4:3].

²⁹⁹ Sahīh Al-Bukhārī 6696, 6700

And Allah the Exalted say, "Except from their wives or those their right hands possess, for indeed, they are not to be blamed" [23:6].

And Allāh the Exalted says, "Lodge them [in a section] of where you dwell out of your means" [65:6].

And Allāh said, "So walk among its slopes" [67:15].

And Allāh the Exalted says, "It is He who enables you to travel on land and sea" [10:22].

And likewise, whoever makes a covenant to grant security (amānah) to someone whom it is not allowed to grant it to, or to keep wealth in the possession of someone for whom it is not allowed to own it, or to invalidate the prescribed *hadd* of Allāh or *qiṣāṣ*, has indeed made a contract based on disobedience and has declared what is permissible to be prohibited. And the Qur'ān has come with rejection of the one that does that and prohibited it. And in this manner is for everything that is not mentioned in the Qur'an and Sunnah on carrying it out.

One of the wonders of the world is the argument made by those who use the narration that says, "Fulfill your vow" as evidence, while they are the first ones to oppose this narration, because the narration came with two meanings. The first is fulfilling what a person vowed during their period of ignorance (pre-Islām) and kufr, while they (the objectors) do not believe in the obligation of carrying that out. The second is that it came regarding the (vowing) seclusion (*i'tikāf*) of one night, and they do not believe in that either.

So, how astonishing it is for someone to use a narration from the Prophet in a matter where nothing of it applies at all, while disobeying that very narration in everything that it contains! And we seek refuge in Allāh from such states. There is nothing more opposite to reality than this.

As for us, we obligate someone who made a vow to obey Allah during their disbelief, and then embraced Islām, to fulfill that vow, following the order of the Messenger of Allah # . Likewise, if someone vowed to perform i'tikāf for a night, they are obligated to fulfill it as well.

And from what we previously mentioned, whoever vows or contracts in falsehood, such as stipulating to his wife, "If I marry another woman, the one I marry will be divorced," or "If I take a concubine, she will be freed," or "If I am absent for such and such a period, or if I relocate her, then she has the right to divorce herself or remain," all of this is disobedience and in opposition to the order of Allah the Exalted and transgresses the limits of Allāh. For Allāh the Exalted has never made the authority of a woman over herself, except for a freed female slave who has a husband, and He has placed the authority of women in the hands of men. Allāh the Exalted says, "Men are in charge of women" [4:34]. And Allāh has made divorce in the hands of men, not in the hands of women. He says, "O Prophet, when you [Muslims] divorce women, divorce them for [the commencement of] their waiting period" [65:1]. And Allāh has not made divorce before marriage, nor emancipation before ownership. So, whoever claims all that we have mentioned to be permissible has fabricated lies against Allāh the Exalted and is forbidden from all of that. And beyond these, merely prohibiting that what is not prohibited, obliging that what is not obligatory, is prohibited.

So it is established that they are false 'uqūd, none of it is valid. And likewise Allāh clarified the ruling of talāq and made it occurring if it occurs where Allāh mentioned its occurrence and that it does not occur if it occurs in places where Allāh has not mentioned its occurrence. So whoever divorces with a set time or brings out his divorce or emancipation in the manner of an oath has transgressed the limits of Allāh, the Most High, and none of that is a valid divorce nor a valid emancipation at all—neither when he carries it out contrary to the order of Allāh, the Most High, nor where he does not carry it out at all. And this is a clarification that does not mislead the one who advises himself, and in Allāh is success.

Then we look at what they cited as evidence from the words of Allāh, the Exalted, "Those who break the covenant of Allāh after its ratification" [2:27].

And the saying of Allāh, "Those who fulfill the covenant of Allāh and do not break the contract" [13:20].

And the saying of Allāh, "Do not barter the covenant of Allāh for a small price" [16:95],

And the saying of Allāh, "And fulfill the covenant of Allāh" [6:152].

So we find these verses to be in complete clarity indicating our statement. Praise be to Allāh, Lord of the worlds. For the covenant of Allāh is only that which is attributed to Allāh, the Exalted. Nothing is attributed to Allāh, the Almighty, except what He has ordered, not what He has prohibited. Whatever is in opposition to this is the covenant of Iblīs, not the covenant of Allāh, the Exalted. And whoever attributes it to Allāh the Exalted has lied about Him.

Then we look into their argument based on the words of Allāh, the Exalted, "If you fear betrayal from a people, then break [the treaty] with them in a just way" [8:58].

We find this to be a *hujjah* for us against them, not for them, because Allāh, the Exalted, did not order His Prophet ## to continue honoring the covenant with those from whom he feared betrayal. Rather, He obligated him to annul their covenant. So it is established that every covenant that Allāh, the Exalted, has ordered to be annulled and rejected is a covenant that is invalidated and rejected, and it is not permissible to continue honoring it.

Then we look into their argument based on the words of Allāh, the Exalted, "And among them are those who made a covenant with Allah, [saying], 'If He should give us from His bounty, we will surely spend in charity and we will surely be among the righteous.' But when He gave them from His bounty, they were stingy with it and turned away while they refused. So He penalized them with hypocrisy in their hearts until the Day they will meet Him because they failed Allah in what they had promised Him and because they used to lie." [9:75-77].

We find that there is no *hujjah* for them in this because these were people who made a covenant with Allāh, the Almighty, that if He provided them with wealth, they would give charity and be among the righteous. This is an obligation upon every person, as 'charity' is a word that applies both to zakāh and voluntary charity. It is obligatory to take from its 'umūm, as long as there is no other nass that prevents this. So this includes those who withhold $zak\bar{a}h$, which is a major sin, as well as all other obligatory charities when a Muslim is in need of it, while excluding voluntary charity. This is because it pertains to a vow regarding something he does not yet own. Likewise, being among the righteous is an obligation, whether a person vows it or not. Allah, the Exalted, has said, "And let not those who [greedily] withhold what Allāh has given them of His bounty think it is good for them. Rather, it is bad for them. They will be encircled by what they withheld on the Day of Resurrection" [3:180]. This is the ruling on those who are stingy with what is obligatory of spending from property, including $zak\bar{a}h$ and other duties that have been explicitly required by the $nus\bar{u}s$.

The Prophet said, "There is no fulfillment of a vow to commit a sin or in matters beyond one's control or owns."300

³⁰⁰ Sahīh Muslim 1640



Ibn 'Abbās narrated, "While the Prophet "was delivering a sermon, a man was standing. The Prophet asked about him, and they said, 'This is Abū Isrā'īl. He vowed to stand and not sit, to not seek shade, to not speak, and to fast.' The Prophet said, 'Order him to speak, to seek shade, to sit down, and to complete his fast.'"

And The Prophet said, "Whoever vows to obey Allāh, let him obey Him, and whoever vows to disobey Him, let him not disobey Him." 302

Anas narrated, "The Prophet saw an elderly man being supported between his two sons and said, 'What is the matter with this man?' They said, 'He vowed to walk.' The Prophet said, 'Allāh does not need this man to punish himself,' so he ordered him to ride."

Then we look into what they argued with from the saying of the Prophet ", "Breaking a promise is a trait of hypocrisy." We find that there is no *hujjah* in this for them. First, the Ḥanafīs and Mālikīs, who oppose us in many aspects of this matter despite their great inconsistency, are in agreement with us that if someone says to another, 'I will gift you a *dīnār* tomorrow,' or 'I will gift you this garment today,' or similar statements, they do not hold him liable (do not oblige him) to fulfill any of that. So they are the first to abandon the very evidence they use.

As for us, we see that Allāh, the Almighty, has absolved the one who promises another something and even took an oath by Allāh, the Exalted, to do so, but then did not fulfill it. Allāh only obligates him to expiate for the oath he went against, not to fulfill the promise (afterwards), nor did He place any blame on him for that.

And also as we clarified before a promise is a *shart* and *shurūt* do not cease to either permit the prohibited, prohibit what is permissible, oblige what is not obligatory or omit the obligation of what is obligatory, all of these are prohibited in general, except if it is already something that is stated in the Qurʿān and Sunnah such as promising to pay of the debts or fulfilling a right due.

We also find that Allāh, the Exalted, says, "And never say of anything, 'Indeed, I will do that, except [when adding], 'If Allāh wills'" [18:23-24]. *Ghad* (tomorrow) mentioned in the verse does not only mean

³⁰¹ Sahīh Al-Bukhārī 6704

³⁰² Şahīh Al-Bukhārī 6700

³⁰³ Sahīh Muslim 1642

tomorrow, it means in general any time in the future³⁰⁴. So it is established by this that whoever makes any promise (except for oaths) and does not add, "If Allāh wills," then he is disobedient to Allāh the exalted and opposes his order. And as his saying is disobedience to Allah then it is rejected and not carried out. Then we find that if he promises and adds, "If Allāh wills," then he has made istithnā' on the will of Allāh and we know by necessity that everything Allāh wills to happen that it occurs without any doubt.

And Allah said, "His command, when He wills a thing, is only that He says to it, 'Be,' and it is" [36:82].

And everything that does not happen is because Allah did not will it to be. So, if this person does not fulfill the promise he made, and he only obliged it adding 'By the will of Allāh,' then we are certain by necessity that Allāh did not will for it to happen. Therefore, his promise does not go against his 'aqd, because the obligation was conditioned on the will of Allāh, which did not occur.

So it is established by this with certainty that the promise which breaking is a trait of hypocrisy is only breaking the promise of what Allāh, the Most High, has made obligatory to fulfill, has made its doing obligatory, and has made its existence necessary, like debts, trusts that must be fulfilled, and rights that are obligatory—only these (all from the $nus\bar{u}s$), and nothing other than that. For in these cases, Allah, the Most High, has made the threat for the sinner who abandons to fulfill them, has cast blame on the one who withholds them, and has ordered their fulfillment, even if, exalted is He, He did not intend the existence of what will/does not exist from them. There is no hujjah for us against Allāh, Allāh has the conclusive hujjah.

And we also found that they have $ijm\bar{a}$ that bequests $(was\bar{a}y\bar{a})$ are promises made by the testator $(m\bar{u}_{\bar{s}}\bar{i})$, then they do not differ that he can retract them if he wishes, except for emancipation, where they differed on the permissibility of retraction. And all of this is returns them to our statement and a contradiction in their statement.

As for us, we do not permit retraction in the emancipation in the will because it is a contract that Allah, the Most High, has encouraged and favored, and what is like that cannot be retracted, for it is a contract that has become binding once committed to, and it cannot be undone except by a nass, and there is no nass allowing retraction in it. And delayed emancipation is

³⁰⁴ Tafsīr Al-Tha'labī 25/238



permissible, unlike delayed gifts and other delayed contracts, because the delay is a condition, and it is not permissible except what is in the Book of Allāh, the Most High.

So as it is established that the Prophet, \cong sold the *mudabbar* (a slave set to be freed upon the owner's death) and did not reject the act of $tadb\bar{t}r$ (the act of setting a slave for future emancipation)³⁰⁵, it is established that delayed emancipation is a condition in the Book of Allāh, the Most High. So it is effective and binding with no retraction, unlike other delayed contracts for which there is no text permitting them.

As for the saying of the Prophet ""He was a pure hypocrite," or "Had a trait of hypocrisy," the Messenger of Allāh, "did not say about him that he becomes a disbeliever.

The asl of the word hypocrite (munāfiq) comes from the burrow of the jerboa (nāfiqā' al-yarbū'), which is a hole made by the jerboa in its burrow, hidden and covered with dirt. So when the one who conceals disbelief and shows faith hides what he reveals, he is called a hypocrite for what we mentioned. So not every hypocrite is a *kāfir*; the *kāfir munāfiq* is the one who conceals kufr and shows īmān. As for the one who conceals something and shows the opposite, his action is hypocrisy ($nif\bar{a}q$) but not kufr. He is, by that action, a hypocrite but not a kāfir. So, when someone who, if he makes a pact, betrays it; if he disputes, behaves immorally; if he promises, breaks his promise; if he is trusted, betrays—conceals what he reveals and says what he does not do—his action is hypocrisy and they are thereby hypocrites. Only the hypocrite that hides kufr is a $k\bar{a}fir$, any other hypocrisy other than that is not kufr. What confirms this is that the apostate from Islām to kufr is judged to be fought against, while those mentioned—the sinner, the promise-breaker, the betrayer of a pact, the betrayer of trust, and the liar in speech—there is no nass of applying the ruling of fighting them in the manner riddah is done, so they are hypocrites that are not apostates and no one has ever said it is kufr, let alone it being an $ijm\bar{a}$. So what we have said is established, and praise be to Allah, the Lord of the Worlds.

Then we look in their argument from the saying of the Messenger of Allāh, "Every traitor will have a banner on the Day of Judgment," what we previously clarified applies to this.

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³⁰⁵ Sahīh al-Bukhārī 6716

Likewise, is the saying of the Prophet about Allāh that Allāh is an opponent to the one who gave a pledge then betrayed it³⁰⁶.

All of this is only concerning someone who made a pact on a right that is obligatory by a *naṣṣ* in the Qurʿān or on the tongue of His Messenger and then betrayed it. This is a very grave matter.

Likewise, one who promised to fulfill an obligatory debt or to return an already obligatory trust and then broke the promise is committing a sin, and we seek refuge in Allāh from it. But it is not the same for someone who made a pact or promise to commit a sin or a sinful act, such as promising another to commit adultery, destroy the Ka'bah, kill a Muslim, abandon prayer, or anything based on what we mentioned before, obliging what is not obligatory or omitting the obligation of that what is obligatory, or prohibiting what Allāh, the Most High, made permissible or making permissible what Allāh, the Most High, prohibited. All of this is forbidden, invalid, and rejected. And in Allāh, the Most High, is success.

And likewise, the statement they used from the Messenger of Allāh . "The most rightful conditions to fulfill are those by which you made permissible the private parts," as mentioned before, this is only without any doubt about conditions that Allāh, the Most High, obliged to make permissible by that the private parts, such as the permissible dowry that must be given, the maintenance, clothing, housing, and good treatment, and avoiding harm or divorce with kindness—not about what Allah, the Most High, prohibited of conditions which are any conditions that make permissible the prohibited, prohibit that what is permissible, omit the obligation of an obligation or oblige that what is not obligatory.

The Prophet said, "It is not permissible for a woman to request the divorce of her co-wife in order to overturn what is in her container. She is only entitled to what has been decreed for her."307

Abū Hurairah also narrated, "The Prophet # prohibited for the woman to make *talāq* the condition of her sister."³⁰⁸

So besides the certain decisive evidences that it is prohibited there are nusūs indicating its prohibition, it is then established that a woman's condition in her marriage for the divorce of another woman, who is under the

³⁰⁶ Sahīh Al-Bukhārī 2270

³⁰⁷ Şaḥīḥ Al-Bukhārī 5152

³⁰⁸ Sahīh Al-Bukhārī 2162

guardianship of the one marrying her, or the divorce of someone who marries her after she is married, is invalid and prohibited, and a condition that is null and void. The contract based on such a condition is not valid and is not enacted. It is established that any marriage contract based on something impermissible in the manners we mentioned is not valid and is always annulled, even if it produces dozens of children, because it is a contract based on what has no validity, and it is invalid unless it is based on what is valid. This is very clear, and praise be to Allāh, Lord of the Worlds.

And it is established from the Messenger of Allāh, "Whoever performs an action not in accordance with our command, it is rejected."

Then we look into their argument based on the narration of Hudhayfahh³⁰⁹. And we find it is $s\bar{a}qit$, its sanad is not authentic. There is in it the $ibh\bar{a}m$ of the mawlā of 'Abdullah Ibn 'Āmir Ibn Rabī 'ah. And as for the $tar\bar{t}q$ from Shu 'bah, it is mursal and there is no hujjah in any mursal narration. As for the other $tar\bar{t}q$, it is also weak, it is from the narration of Al-Walīd Ibn Jumay' who is $s\bar{a}qit$ and discarded. He is a fabricator of $had\bar{t}th$ he narrated narrations that the companions wanted to kill the Prophet $\stackrel{\text{def}}{=}$.

And also, indeed, Allāh Almighty refuses except to expose the liars, and the lie in this narration is evidently certain because Ḥudhayfah was from Madīnah, and both he and his father before him were allies of Banū ʿAbd Al-Ashhal from the Anṣār. He had no route to the Prophet , that would lead him to Quraysh at all, because the path from Madīnah to the Messenger of Allāh him, when he went to Badr, was behind the route of Quraysh from Makkah to Badr. So, the falsehood of that narration is certainly established, and with Allāh's help is the success. Then, even if it would be authentic, which it is not, it would have been abrogated without a doubt by what we will mention, by the will of Allāh, in the story of Abū Jandal after this. And by Allāh Almighty we are supported.

Then we looked at the narration in which it says, "Muslims are bound by their conditions." ³¹⁰

None of this narration is authentic at all. As for the $tar\bar{t}q$ chain, it is from Kathīr Ibn Zayd, and he is $h\bar{a}lik$, abandoned by Aḥmad, Yaḥyā and the people. The second $tar\bar{t}q$ it is by Al-Walīd Ibn Rabāḥ, and he is unknown. The other contains Kathīr Ibn 'Abd Allāh, who is the same as Kathīr Ibn

³⁰⁹ Sunan Abī Dāwūd 4991 | Ṣaḥīḥ Muslim 1787

³¹⁰ Sunan Al-Tirmidhī 1352 | Musnad by Al-Bazzar 5408, 12/32

Zayd, sometimes attributed to his father and sometimes to his grandfather, and his father is also like him. The third is through Muḥammad ibn 'Abd al-Raḥmān inn al-Baylmanī, who is weak.

As for the narration from Rasūlullah , it is weak because of Kathīr Ibn 'Abdullah al-Muzanī, he is Matrūk as it is mentioned by al-Nasā'ī, al-Dāragutnī, al-Shāfi'ī, Ahmad, Abū Dāwūd, Abū Zur'ah and others.

This narration has another attributing to the Prophet ## that he said, "Sulh is permissible between the Muslims, except a sulh that permits what is prohibited or prohibits what is permissible". From the tarīq of Kathīr Ibn Zayd and Muḥammad Ibn Al-Fath Al-Simsār³¹¹. These are also weak because of Ibn Zabālah, Kathīr Ibn Zayd and Muḥammad Ibn al-Fath al-Simsār, they are all weak.

Then, even if it were authentic, which it is not, it would be *hujjah* for us against them, because in it the Prophet, ## attributes conditions to the Muslims, and there are no conditions for Muslims except the conditions that Allāh Almighty has permitted in the Qur'ān or in the established in the Sunnah.

There are no conditions for Muslims other than these because Muslims do not permit inventing conditions that Allāh Almighty has not allowed, those are the conditions of Satan and his followers, not the conditions for the Muslims, because the Prophet said, "Every innovation is a bid'ah and every bid'ah is misguidance and all misguidance is in the fire."312

And the most astonishing thing is that the Hanafis and Mālikīs use these narrations as evidence, while they are the first to oppose them. They say, "Every condition in a marriage is invalid unless it is made with an oath." Then they also contradict themselves concerning the oath, considering as an oath what Allāh Almighty has never made an oath, nor the Messenger of Allāh. So, what contradiction is greater than this?

And also in the narration it is mentioned, "People are bound by their conditions as long as they agree with the truth." And by my life, if this were authentic, it would have been a greatest hujjah against them, because it invalidates every condition that does not agree with the truth. And nothing agrees with the truth except what is found in the Qur'an or in the judgment

³¹¹ Sahīh Ibn Hibban 4660, 5/415

³¹² Sunan Abī Dāwūd 4607 | Sunan Al-Tirmidhī 2676



of the Prophet . This is also the case with the narration, "Sulh is permissible between Muslims, except for a settlement that makes what is prohibited permitted or makes what is permitted forbidden." Obliging what is not obligatory or omitting the obligation of what is obligatory is a sulh that permits the prohibited.

So, everything they have argued with, whether it is authentic or false and weak, turns into a *ḥujjah* for us against them. Praise be to Allāh, Lord of the worlds.

Then we look into the narration of $Ab\bar{u}$ Jandal³¹³ and we find that there is no *hujjah* for them in it, for six reasons.

The first is that no agreement had been made by the Prophet to return those who came from Quraysh to him when Abū Jandal came as narrated by Marwān, "The Muslims said, 'Glorified be Allāh! How will such a person be returned to the pagans after he has become a Muslim?' While they were in this state Abū Jandal Ibn Suhail Ibn 'Amr came from the valley of Makkah staggering with his fetters and fell down amongst the Muslims. Suhail said, 'O Muḥammad! This is the very first term with which we make peace with you, you shall return Abū Jandal to me.' The Prophet said, 'The peace treaty has not been written yet.' Suhail said, 'By Allāh, I will then never make a treaty with you on anything ever.' The Prophet said, 'Yes, do!' He said, 'I will not do it for you.' Mikraz said, "We allow you (to keep him)." This is a matter that the opponents do not say, that whoever came to them before the agreement was finalized should be returned to them. So how can they argue based on something that is impermissible in their view? Is this not one of the calamities and scandals?

The second reason is that, as you can see, the Prophet , did not return Abū Jandal except after receiving permission from someone Quraysh could not oppose, and that person was from the same clan as Suhayl Ibn 'Amr. Suhayl was the son of 'Amr Ibn 'Abd Shams Ibn 'Abd Wud Ibn Naṣr Ibn Mālik Ibn Ḥusl Ibn 'Āmir Ibn Lu'ay, and the one who granted protection to Abū Jandal was Mikraz Ibn Ḥafṣ Ibn Al-Akhyaf Ibn 'Alqamah Ibn 'Abd Al-Ḥārith Ibn Munqidh Ibn 'Amr Ibn Mu'ays Ibn 'Āmir Ibn Lu'ay, one of the leaders of Banū 'Āmir Ibn Lu'ay. So what they clinged onto of the Prophet returning Abū Jandal is nullified, as he did not return him except under

³¹³ Şahīh Al-Bukhārī 4180, 4181

³¹⁴ Sahīh Al-Bukhārī 2748

protection and safety. Meaning that the Prophet # returned Abū Jandal not because of the treaty itself, but because Mikraz, a respected Quraysh leader, intervened and provided protection for Abū Jandal.

The third reason is that the Prophet, did not return any Muslim to the kuffār during that period except after Allāh, the Almighty and Majestic, had informed him that they would not be subjected to trials in their religion or in their worldly affairs, and that they would certainly be saved. Anas narrated, "Quraysh made a peace treaty with the Prophet ## and they stipulated a condition to the Prophet # that whoever comes to you from us, you must return him to us, and whoever comes to us from you, we will not return him to you. And whoever comes from us you return him to us. They said, 'O Messenger of Allāh, will you write this down?' He said, 'Yes. Whoever goes from us to them, then may Allah distance him, and whoever comes from them to us, Allāh will make a way out for him."315 And Allāh, the Almighty and Majestic, described His Prophet, saying, "Nor does he speak from [his own] desire. It is only a revelation revealed" [53:3-4] So we are certain that the Prophet's statement # , that whoever comes to him from the disbelievers of Quraysh as a Muslim, Allāh will make a way out for him, is a true revelation from Allāh with no error in it. So the protection from any harm in this world or the Hereafter is confirmed without doubt for whoever came to him from them, until they are saved from the hands of the disbelievers. No Muslim who carefully reflects on this can have any doubt. This is a matter that no one after the Prophet acan know, and it is not permissible for a Muslim to make such a condition, nor to fulfill it if it is made, since he does not have knowledge of the unseen that Allah revealed to His Messenger. And success is from Allāh, the Almighty.

The fourth reason is that the Messenger of Allāh did not return the Muslims he sent back to the disbelievers except as free individuals to their families, fathers, and people. As for the opponents in this case, they only return free Muslims as slaves to the disbelievers, who subject them to the most severe torture, commit the forbidden immoral acts with women, and perhaps even kill them. We do not know how a Muslim makes something like this easy to accept.

The fifth reason is that Al-Miswar Ibn Makhramah and Marwan narrated the story of Hudaybiyyah and the end of it there is mention of the

³¹⁵ Sahīh Muslim 1784

departure of Abū Baṣīr, who was 'Utbah Ibn Usayd Ibn Jāriyah Al-Thaqafī, an ally of Banū Nawfal Ibn 'Abd Manāf, to the coast of the sea, and the escape of Abū Jandal, the son of Suhayl, to him. They said, "No man from Quraysh who had become Muslim would leave except to join Abū Baṣīr, until a group of them gathered. By Allāh, they would not hear of a caravan of Quraysh leaving for Syria except that they intercepted it, killed them, and took their wealth. Quraysh then sent a message to the Prophet pleading with him by Allāh and by the ties of kinship to send a message to them, declaring that whoever comes to him would be safe. So the Prophet, sent a message to them³¹⁶.

This is Abū Baṣīr and Abū Jandal³¹⁷, and those with them from the Muslims, who shed the blood of the Quraysh, who were in a treaty with the Messenger of Allāh , and took their wealth. This was not prohibited for them, nor were they ruled sinful for it. And there is no doubt that the Messenger of Allāh, was capable of preventing them from doing this if he had prohibited it, but he did not. So it is absolutely certain that this treaty was abrogated, contrary to what the opponents say today that it applied only to those who were in Madīnah, not to those outside it.

The sixth reason, which decisively ends all disputes and cuts off all objection, is the certainty that this treaty was abrogated, and it is prohibited to establish or make such a treaty forever. By that which is in Sūrah Barāʿah from the saying of Allāh, "And when the inviolable months have passed, then kill the polytheists wherever you find them and capture them and besiege them and sit in wait for them at every place of ambush" [9:5].

And by the saying of Allāh, "Fight against those who do not believe in Allāh or in the Last Day and who do not consider unlawful what Allāh and His Messenger have made unlawful and who do not adopt the religion of truth from those who were given the Scripture - [fight] until they give the jizyah willingly while they are humbled" [9:29].

And by the saying of Allāh, "And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allāh. Then deliver him to his place of safety" [9:6].

³¹⁶ Şahīh Al-Bukhārī 2748

³¹⁷ Sahīh al-Bukhārī 2748, 3/576

And by the saying of Allāh also in Sūrah Barā'ah, "How can there be for the polytheists a treaty in the sight of Allāh and with His Messenger, except for those with whom you made a treaty at al-Masjid al-Ḥarām" [9:7].

And Sūrah Barāʿah is the last chapter revealed as Al-Barāʿ Ibn ʿĀzib said, "The last verse revealed is, 'They request from you a ruling. Say, 'Allāh gives you a ruling concerning one having neither descendants nor ascendants [as heirs]." [4:176] And the last Sūrah revealed is Barā'ah."318

With this, the Prophet's # final covenant with the disbelievers was during the *hajj* of Abū Bakr, leading the people, which occurred three years and one month after the Hudaybiyyah, in which the story of Abū Jandal took place. This is because Hudaybiyyah occurred in Dhūl-Qa'dah of the sixth year after the *hijrah*, before Khaybar. Then, in *Dhūl-Qa'dah* of the following year, a full year after Ḥudaybiyyah, the Messenger of Allāh did the 'umrah al- $qad\bar{a}$ ' in the seventh year after the *hijrah*. Then came the conquest of Makkah in Ramadān of the eighth year after the *hijrah*, a year and two months after the 'umrah al-qada'. And in that same year, 'Attab Ibn Usayd led the Muslims in hajj. Then Abū Bakr led the hajj in Dhūl-hijjah of the ninth year after the hijrah, a year and two months after the conquest, as Abū Hurayrah narrated, "Abū Bakr sent me during that hajjah. The Prophet, then sent 'Alī Ibn Abī Tālib to follow us and commanded him to recite loud Sūrah Barā'ah. 'Alī, proclaimed with us on the Day of Sacrifice in Minā the declaration of Sūrah Barā ah, stating that no polytheist shall perform hajj after this year, and no one shall circumambulate the Ka'bah while naked."319

So, it is established that it is not permissible to make a treaty with a polytheist or to form a contract except on the basis of Islām alone, or on the condition of paying the jizyah and living in submission if they are People of the Book. It is also certain that any treaty, contract, or condition made with them, or agreed upon with them, that is other than what we have mentioned is invalid, null, and it is not permissible to establish it or fulfill it if it has been made. Rather, it must be dissolved, without exception.

The first thing that Allāh Almighty abrogated from the treaty that was made on the Day of hudaybiyyah was the return of women [to the disbelievers], as Al-Miswar Ibn Makhramah and Marwān, narrated the story of hudaybiyyah and the condition of Suhayl, which we mentioned before. In

³¹⁸ Sahīh Al-Bukhārī 4654

³¹⁹ Sahīh Al-Bukhārī 369, 1622, 3177, 4363

the narration they mentioned, "Then believing women came, and Allāh Almighty revealed, 'O you who believe, when believing women come to you as emigrants, test them; Allāh is most knowing of their faith. And if you know them to be believers, then do not return them to the disbelievers. They are not permissible for them, nor are they permissible for them" [60:10]. 320

'Urwah Ibn Al-Zubayr and Marwān Ibn Al-Ḥakam narrated from the companions of the Messenger of Allāh, "When the Messenger of Allāh made a written agreement with Suhayl Ibn 'Amr on that day – meaning the day of Ḥudaybiyyah – on that day, he returned Abū Jandal to his father, Suhayl Ibn 'Amr, that no man came to him during that period except that he returns him, even if he was a Muslim. And the believing women came as emigrants. Umm Kulthūm Bint 'Uqbah Ibn Abī Mu'ayt was among those who came to the Messenger of Allāh , on that day. She was a young woman. Her family came to ask the Messenger of Allāh to return her to them, but he did not return her to them till Allāh revealed about the believing women what He revealed."

And Al-Miswar Ibn Makhramah narrated, "The Prophet left Hudaybiyyah," and he mentioned the hadīth and the condition of Quraysh that anyone who came to them as a Muslim would be returned to them. Then he said, "Then believing women came as emigrants, and Allāh forbade them from being returned and ordered them to return the dowry." 322

When Allāh Almighty abrogates the covenant, contract, and condition of His Prophet, who is this ignorant person who permits this condition for anyone after him? We seek refuge in Allāh from that.

The same applies to the <code>hadīth</code> of Abū Rāfiʿ, for it is abrogated by [the revelation of] Barāʿah However, it is a <code>hadīth</code> we reject, even though we do not know of any defect in its <code>sanad</code>. But we are astonished by it because Abū Rāfiʿ was a freed slave of the Prophet , a slave who had been manumitted. So how could he have become a messenger with the polytheists of Quraysh?

And the revelation of Barāʿah occurred after all of Quraysh had embraced Islām, and after the event involving Abū Rāfīʿ, without a doubt. So, when it became clear from all that we mentioned that there is no *ḥujjah*

³²⁰ Ṣaḥīḥ al-Bukhārī 2711, 2712

³²¹ Al-Sunan Al-Kubrā by Al-Nasā'ī 11748, 10/372

³²² Sunan Abī Dāwūd 2765

in anything we mentioned for those who permit vows, contracts, conditions, and covenants in general except for what is specified by explicit text or $ijm\bar{a}$ that it is not permissible, we returned to the second statement and find it to be correct. We find the texts upon which they relied explained and clarified, overriding the general statements that their opponents used as evidence. We find the texts supporting the validity of their statement.

Among these is the explicit statement of the Prophet about which Allāh Almighty said, "And We have sent down to you the Reminder, so that you may explain to the people what has been sent down to them" [16:44].

The Prophet said, "What is the matter with people who stipulate conditions that are not in the Book of Allah? Every condition that is not in the Book of Allāh is invalid, even if it is one hundred conditions. The condition of Allāh is more binding, and the Book of Allāh has more right to be followed."

So with this *nass* it is established, and we have mentioned in this chapter that every condition a person stipulates upon himself or on someone else is invalid and not binding at all, unless there is an explicit nass or ijmā' permitting that specific condition or obligating it. And there are only a few conditions of that manner which we have mentioned in our book Dhūl-Oawā'id

As for vows, the Prophet said, "The vow neither hastens anything nor defers anything, but is the means whereby (something) is extracted from the miserly person."323

And the Prophet said, "Do not take vows, for a vow has no effect against Fate; it is only from the miserly that something is extracted."324

And Ibn 'Abbas narrated, "When the Prophet "was informed that the sister of 'Uqbah Ibn 'Āmir had taken a vow to perform *hajj* on foot, he said, 'Allāh is not in need of her vow. So ask her to ride." 325

So, with these two texts, all vows are invalidated, and none of them are binding except those validated by text, either through making them obligatory or permitting their fulfillment. And this applies only to acts that

³²³ Sahīh Muslim 1639 | Sahīh Al-Bukhārī 6608

³²⁴ Şaḥīḥ Muslim 1640 | Şaḥīḥ Al-Bukhārī 6609

³²⁵ Sunan Abī Dāwūd 3297



are obedience to Allāh, Almighty, as the Prophet aclarified when he said, "Whoever makes a vow to obey Allāh, let him fulfill it." 326

As for contracts, Messenger of Allāh said, "Whoever does an action not in accordance with our command, it is rejected." 327

So, with this text, the invalidity of every contract a person makes and obliges it is established, unless it is established that the contract is one that an explicit text or $ijm\bar{a}$ has made obligatory by name or has permitted to be carried out. Likewise, the ruling of the Messenger of Allāh \cong invalidated the reconciliation agreement of those who reconciled with the man whose son committed adultery with his wife.

As for the narration, "And any believer's promise is binding," it is *mursal*, and there is in it also Hishām Ibn Sa'd, who is weak.

Similarly, the narration, "Do not promise your brother and then break it," 329 is also *mursal*.

Those who use these as evidence are most opposing to them, as they do not oblige fulfillment of a promise for those who made it as we mentioned before.

As for the narration, "If you say to a boy, come here and I'll give you something, then he does not give it, it is a lie." ³³⁰

This is *munqați* 'because Ibn Shihāb did not meet Abū Hurairah. And even if it would be authentic, it would not be a *ḥujjah* for them as wording of the narration indicates a gift done given in a valid manner so it becomes necessary.

As for covenants, Allāh Almighty says in Sūrah Barāʿah, which is the last Sūrah revealed, and the last covenant made with the Muslims and the polytheists, with that it abrogated all that came before it. Allāh, the Exalted, said, "How can there be a covenant for the polytheists with Allāh and with His Messenger, except for those with whom you made a treaty at the Sacred Mosque? So, as long as they are upright toward you, be upright toward them. Indeed, God loves the righteous" [9:7] So, Allāh Almighty invalidated every

³²⁶ Şaḥīḥ Al-Bukhārī 6700

³²⁷ Sahīh Muslim 1718

³²⁸ Al-Marāsīl by Abū Dāwūd 524

³²⁹ Al-Adab Al-Mufrad 394, pg. 142

³³⁰ Al-Jāmi ' by Ibn Wahb 514, pg. 610

covenant made with a polytheist, except what is mentioned in the same Sūrah which is the *jizyah* with humiliation upon the People of the Book.

Allāh, Almighty, also excluded those whom the Messenger of Allāh, , made a covenant with at the Sacred Mosque specifically. And they are the ones mentioned at the beginning of the Sūrah, where Allāh, the Exalted, says, "A declaration of disassociation from Allāh and His Messenger to those with whom you made a treaty among the polytheists. So travel freely throughout the land for four months and know that you cannot escape Allah and that Allāh will disgrace the disbelievers" [9:1-2].

So, when those four months expired, there does not remain a covenant for a polytheist with a Muslim, unless they are from the People of the Book and agreed to pay the *jizyah* with humiliation. If they accepted that, they were granted it; otherwise, not

So, with this text, it is established that every covenant a Muslim makes with a polytheist, other than [the agreement of paying] the jizyah with humiliation, is a covenant of the devil, nullified and rejected. It is not permissible to fulfill it, and there is no difference between someone who relies on the *hadīth* of Abū Jandal and someone who prays toward Jerusalem and abandoned the Ka'bah, for the Prophet # did both, and then both were abrogated.

The greatest wonder is for those who do not care about the limits set by Allah Almighty and make contracts that contradict them, and uphold a covenant with a disbeliever that Allāh and His Messenger have ordered to be annulled. The greatest wonder is also from the Mālikīs, specifically ibn al-Qāsim, the companion of Mālik and Mālik himself who say that if wardisbelievers come down to us under a truce, while they hold Muslim men and women captives, that these Muslim captives must not be taken away from them and that they must be left with them and returned to their lands, and [the disbelievers] must not be prevented from engaging in sexual relations with them³³¹.

We seek refuge in Allah Almighty from this accursed statement, at which the bodies of Muslims shudder just from hearing it, let alone believing it. I wonder, if they made a covenant with them to dig up the grave of the Prophet sor to turn mosques into churches, or to hang bells in the minarets, would they rule it as necessary to fulfill those covenants, despite what they

³³¹ Al-Tāj Wal-Iklīl 4/566 | Al-Nawādir Wal-Ziyādāt 3/144



hear from the words of Allāh Almighty, "How can there be a treaty for the polytheists with Allāh and His Messenger" [9:7]? Then, they rely on the narration of Abū Jandal, which has been abrogated by Allāh's explicit statement in Barā'ah, as we have recited in this chapter.

If they rely on the words of Allāh Almighty, "And if any one of the polytheists seeks your protection, then grant him protection so that he may hear the words of Allāh" [9:6], this is evidence against them, not for them, because Allāh Almighty did not permit, in this verse, the release of a Muslim, or his wealth, or his humiliation. Instead, He only permitted the sparing of their blood, nothing more. Have they not heard the words of Allāh Almighty, "Muḥammad is the Messenger of Allāh, and those with him are severe against the disbelievers, merciful among themselves" [48:29]? Whoever permits a $k\bar{a}fir$ to own a Muslim has reversed the description in this verse, making them merciful to the $kuff\bar{a}r$ and harsh among themselves. We seek refuge in Allāh from this ugly characteristic.

And His words, the Exalted, "Nor do they tread any ground that enrages the disbelievers, nor do they inflict any loss upon an enemy, but it is written to their credit as a righteous deed" [9:120].

The Prophet said, "The believer to the believer is like a building, supporting one another," and he intertwined his fingers³³².

Al-Barāʿ Ibn ʿĀzib narrated, "The Prophet sordered us with seven things: (from them is) helping the oppressed."

And the Prophet said, "The Muslim is the brother of the Muslim; he does not wrong him nor abandon him. Whoever is in the need of his brother, Allāh will be in his need. Whoever relieves a Muslim from a distress, Allāh will relieve him from a distress on the Day of Resurrection. And whoever covers a Muslim, Allāh will cover him on the Day of Resurrection."

And the Prophet said, "The Muslim is the brother of the Muslim; he does not wrong him nor forsake him." 335

³³² Şaḥīḥ Al-Bukhārī 481, 2446, 6026

³³³ Şaḥīḥ Al-Bukhārī 1239, 2445, 5175, 5635, 5650, 5838, 5849

³³⁴ Şaḥīḥ Al-Bukhārī 2442, 6951 | Şaḥīḥ Muslim 2580

³³⁵ Sahīh Muslim 2564

And the Prophet said, "The likeness of the believers in their mutual love, compassion, and mercy is like that of a single body. When one part of it is in pain, the rest of the body responds with sleeplessness and fever."336

And the Prophet said, "The Muslims are like one man: if his eye suffers, the whole body suffers; if his head suffers, the whole body suffers."337

They have turned away from all of this, so we know that there it is prohibited to oppose the order of no oppression the Muslim, nor handing him over, nor forsaking him, nor neglecting his need, nor failing to relieve his distress, nor sharing his flaws. This applies to every Muslim. There is no greater opposition to Allah, the Exalted, and His Messenger, ## than leaving a Muslim man or woman under the control of a polytheist, who humiliates him or has intercourse with her.

So it is absolutely necessary that when an imām faces a rebellious person who has left his obedience, someone oppressive and seeking worldly gain, and that person does not return to obedience except by making agreements, covenants, and contracts that they will not interfere with their false situation or false possessions—this is a corrupt safety agreement, a void contract, nullified covenants, and all the conditions are invalidated. Nothing is omitted from him except the *hadd* of *muḥārabāḥ* in that case only as from the nass of the Qur'an when He said, "Except for those who came back with repentance before they fall into your power" [5:34].

And with that, no retaliation for a Muslim in life or less is negated, nor any of the limits of Allāh Almighty, nor the right of a Muslim in money taken by false means; rather, the judgment is carried out in all of that according to what the Qur'an or the Sunnah obliges. Otherwise, the *imam* is disobedient to Allāh Almighty if he neglects that.

And they say about the one who says, "If I marry so-and-so, she is divorced," then marries her, that she is divorced from him, and they argue with [the verse], "Fulfill your contracts" [5:1] And they believe that if a messenger came from dar ul-harb and then became Muslim, that he must be returned to the disbelievers.

Then they say about a man who had a Muslim partner in a house, and his partner offered to take his share for what he was given for it or leave it and sell it to whoever he wants, and the partner permitted him to sell and

³³⁶ Sahīh Al-Bukhārī 6011

³³⁷ Sahīh Muslim 2586

made a contract with him, and he testified to the people willingly that he abandoned his right of preemption and that he would not exercise it, and the partner sold [the share]; they say, "That agreement and that contract are void and not binding, and he still has the right of preemption." (The right of preemption is the right that Allah gave to a person if he has a partner in a certain property which is a joint ownership. If one of the partners wishes to sell his share, then his partner is more entitled to buying it than any other person in order to eliminate any harm that the latter may incur (if an outsider bought that share). An example: two men share the ownership of a piece of land. The first partner sold his share of the land to a third party. So the second partner who did not sell his share has the right to buy the sold land from that third party without his consent and join it to his share of the land. So, the whole land would be in the possession of the second partner, who did not sell his share). So they say the complete opposite of the ruling. Could there be anything more contrary to reality than this? This is a condition that the nass obliges, and they nullified it. It is the judgment of Allah Almighty and the judgment of His Messenger, and they permitted conditions that are abrogated and contracts that are never valid anymore.

The Prophet said, "There is preemption in everything which is shared, be it land, or a dwelling or a garden. It is not permissible to sell it until he asks permission of his partner; that partner may approve it, or he may abandon it; and if he (the partner intending to sell his share) does not do that (does not ask him), then his partner has the greatest right to it until he permits him." 338

The Prophet did not grant the right to take or leave to the partner except before his partner's sale. He did not grant him any right after the sale unless the partner had not informed him before the sale. But these people have reversed the truth as you can see. The Prophet only gave the co-owner (sharīk) the right to buy the property (take it) or decline (leave it) before the other co-owner sells their share. This means the co-owner must be informed of the intention to sell the shared property, and they have the first right to purchase it. If the property has already been sold without notifying the co-owner, the Prophet did not grant any rights to the co-owner after the sale. However, if the selling co-owner did not inform the other co-owner of the

³³⁸ Sahīh Muslim 1608

sale (i.e., failed to offer them the right of preemption), the co-owner retains the right to claim the property, overriding the new buyer's purchase.

They leave their argument with the verse, "Fulfill the contracts" [5:1] whenever they want, and they nullify the contracts which Allah ordered to be fulfilled, then they use as evidence the verse, "Fulfill the contracts" [5:1] wherever they want and continue a contract that is not allowed for a Muslim to remain silent on after hearing it, then how about implementing it? And for that which *nass* has come with its invalidation.

And they invalidate from the vows which the Prophet so ordered to be carried out by its wording such as the vows that were done in the days of ignorance which the Prophet sordered to be carried out. Then these people reverse this and say the opposite.

And they say, "If someone sells a sale with conditions that invalidate it, and then says, 'I drop the condition,' that is permissible, and the sale is valid."

But they also say, "If someone sells a sale to an unknown term and says, 'I will hasten the payment and drop the term,' that is not permissible, and the sale is invalid."

They say, "If someone buys a slave on the condition that he will free him, that is permissible and binding, and he cannot return him for a defect he finds in him but can take compensation for the defect."

And they say, "If he frees him on the condition that he does not leave him, that is not permissible."

And they say, "If one person says to another, 'Sell me your slave for the purpose of freeing him for forty dīnārs,' and the seller says, 'No, rather for fifty dīnārs,' and the buyer refuses, and then the slave says to his master, 'Sell me to him for forty dīnārs, and I will contract with you and commit myself to the additional ten dīnārs,' and he bears witness to that, and the master agrees to that, and the slave voluntarily commits to the ten dīnārs and bears witness against himself, and the buyer buys the slave and frees him," they say, "The slave is not obligated by anything he contracted upon himself or bore witness to."

And they say, "If someone says to his slave, 'You are free, and you owe fifty $d\bar{\imath}n\bar{a}rs$,' this is valid, and it becomes obligatory upon the slave to pay it, whether he wishes or not."



And they say, "And if someone stipulates with his slave that he serves him for this year, which begins in such-and-such month, and then after that, you are free, and the slave agrees to this, but then the slave runs away for the entire year," they said, "He is free, and the condition of service is not binding on him."

And they say, "If someone sells the fruits of his orchard and stipulates for the buyer that he, the seller, will not be responsible for any calamity if the crop is destroyed by a disaster, and then the crop is destroyed," they said, "That condition is not binding, and he has the right to compensation for the calamity."

And they say, "If a sick person consulted his heirs about making a bequest for more than one-third (of his estate), and they were not under his guardianship (*kafālah*), and they approved it for him, and then he made a bequest for more than one-third, and then died," they said, "What they approved is binding on them, and they cannot retract it."

This is the reversal of the truth, the approval of what is not permissible, permitting of what Allāh has prohibited, and the invalidation of that what can never be invalidated.

And they say, "If the *mukatab* (a slave with a contract of manumission) and his master mutually agreed and stipulated that if the *mukatab* did such-and-such action, then his contract would be erased by his master's hand, and the *mukatab* did that action, acknowledged it, or witnesses testified to it," they said, "This condition is not binding, and the voiding of the contract is not by the master's hand, but rather it is by the ruler's authority."

But then they say, "If two litigants appointed someone from among the general Muslims, who has no authority, to judge between them, and he judged between them by their consent, but then one of the litigants refused (to accept the judgment)," then they said, "That judgment is binding on both of them, whether they agree or not, and it is valid against them."

And all of this invalidates each other.

And they say, "If someone stipulates with his *mukatab* (a slave with a contract of manumission) for unspecified servants that are not described," they said, "This is a valid and binding condition." Then they said, "If they mutually agree, by their consent, that whatever children are born to the *mukatab* before he completes paying off his contract, those children are not

included in the manumission." they said, "This condition is not binding or valid." This is their statement while they also say, "The mukatab remains a slave as long as even a single *dirham* remains unpaid, and that if he becomes unable to pay, he reverts to being a full slave."339

And they say, "If someone stipulates with his mukatab specific sacrifices (udhiyah) known work, limited service, and clothing, and then the mukatab paid all his installments in a lump sum before the due dates, the master is compelled to accept them, and the *mukatab* is immediately freed, and their conditions regarding the deadlines are nullified."

While these are conditions the *ummah* has concurred on their validity and their obligation.

They say, "The condition of service, work, and travel without compensation that the *mukatab* (the contracted slave) is obliged to fulfill is nullified, but the conditions for sacrifices and clothing are not nullified, though they are also not obligatory. Rather, they say that all of that should be accounted for, and their value should be paid along with the prepayment of the installments of the manumission contract (kitabah)."

So they invalidated the condition of deadlines, which Allah had validated, without any certain evidence. And they falsely ruled in the other conditions and invalidated each other, substituting others, all without any evidence. All of that is ruling without evidence.

And if they rely on the case of 'Umar Ibn Al-Khattab, who compelled Anas to expedite the freeing of his *mukātab* when the *mukātab* prepaid all the installments³⁴⁰.

It is said to them: This is one of the strangest things! These are two different cases where 'Umar and Anas differed. Yet you opposed 'Umar in one case where it is not permissible to do so, and followed Anas in one of the two cases, only to then oppose Anas again where it is not permissible to oppose him in the second case. And you relied on 'Umar.

For in the first case, 'Umar compelled Anas to enter into the Mukātabah of Sīrīn (a slave), and the Qur'ān indicates 'Umar's correctness in this case with the verse, "Then give them such writing, if you know that they are good" [24:33].

³³⁹ Al-Muwatta' 2/808 | Sharh Al-Sunnah 8/152 | 9/274-276

³⁴⁰ Al-Ma'rifah by Al-Bayhaqī 4/422-423 | 7/553

So, you opposed 'Umar and said it is not permissible to compel a master to contract the manumission of his slave, even if all the good is known in him. Then, 'Umar also compelled Anas to waive the deadlines for the *mukātab* and expedite his freedom once the *mukātab* prepaid all that was due, but Anas refused this. And the *naṣṣ* indicates the correctness of Anas, because the contract for the agreed-upon deadlines in the *kitabah* is part of the contracts that the *ummah* has unanimously agreed upon as valid. So it is included in the generality of Allāh's verse, "And fulfill the covenant" [17:34]. And any contract that has been validated by a *naṣṣ* or by *ijmā* cannot be nullified except by another *naṣṣ* or *ijmā* , and there is neither a *naṣṣ* nor *ijmā* regarding the nullification of the deadlines for the *mukātab* by the prepayment of what is due. So, you opposed Anas in this case, and you opposed 'Umar in the first case. If one were to say to you, "Say something as false as you are able to," you could not do more than this.

And they say, "If someone has intercourse with his *mukātabah* (female slave with a contract of manumission) and she becomes pregnant, she is given the choice between continuing with the contract or canceling it, and the condition and the contract are lost in vain."

And they say, "If someone has a debt owed to him by another person, to be paid at a specific time, either in food or gold to be paid on a fixed future date, and the debtor comes to repay before the deadline, He can be forced to take the gold before the deadline, but he cannot be forced to take the food until the deadline arrives."

So at times they affirm the conditions and use the verse, "Fulfill [your] contracts" [5:1]. And the narration, "The Muslims are upon their conditions."

And at times they invalidate all of that however they wish.

And they say, "If someone is owed a debt by another, either with a fixed due date or payable on demand, and says to the debtor, 'I will grant you an extension of ten days beyond the original due date for the debt you owe me, and tomorrow I will gift you a $d\bar{n}a\bar{r}$," They say, "He will be bound to the delay, whether he wishes it or not, but he is not bound by the gift of the $d\bar{n}a\bar{r}$ he mentioned at all."

And they say, "And if someone said to his debtor, 'Bring me what you owe me, which is currently due (without a specified time), and I will gift

you half of it,' and the debtor brought it, the lender is obligated to fulfill the promise to gift half, and he will be held to it."

And they say, "And if someone says, 'My wealth is charity for the poor,' it becomes obligatory that a third of his wealth be given, but he is not obliged to really distribute a third to charity. If he delays until the third is lost, he is not obliged to give anything in charity." They said, "But if someone gives a specific individual a house as charity, he is obliged to."

And they say, "If someone says, 'This house of mine is charity for Zayd,' or, 'for the poor, if I enter 'Amr's house,' and then enters it deliberately and remembering his oath," They said, "He is not obliged to do anything, and it is not ruled that he must fulfill what he gave in charity, neither to the specific individual nor to the poor."

And they said, "But if he said that without it being an oath, he is obliged to fulfill what he gave in charity to the specific person."

And they say, "If someone says, 'My slave is free if I enter Amr's house,' and then he enters, he is obliged to free the slave."

And they say, "And if someone says in a vow, 'If my father returns safely, I will free my slave for the sake of Allāh,' and then if his father returns safely, he is not obliged to free that slave."

And they say, "But if he says, 'If I purchase so-and-so's slave, he will be free,' and then purchases the slave, then he is obliged to free him."

These are all the opposite of the ruling of the Prophet * who said, "Whoever vows to obey Allāh, let him obey Him," and he said , "There is no vow regarding what a person does not own." But they ruled that he must fulfill the vow for what he did not own when he made the vow, and they did not rule that he must fulfill the obligation Allah required him to fulfill and keep.

And they say, "And if someone says, 'I will gift you a dirham tomorrow,' he is not obliged to fulfill it."

And they say, "But if he says, 'If you buy this garment, I will assist you with its price and gift you a dirham,' then he is obliged to fulfill that."

And they say, "And if someone stipulates with his wife that he will not relocate her, nor take a concubine over her, nor marry another woman over her, he is not obliged any of it and the *nikāḥ* is valid, he may get a slave girl and marry other woman."

And they say, "If someone adds conditions to all of that, such as saying, 'If I do this, then authority (to divorce) is in her hands,' or, 'The concubine is free,' or, 'The one who enters through marriage is divorced,' then all of that is binding upon him, and he will be ruled accordingly."

We say: There is no deceit worse than this.

They say, "If someone stipulates that he will cover the expenses of his son's wife, this is not binding on him for an adult, while the marriage is valid," they differed on whether this is binding for a childs' wife.

They say, "If someone marries a woman on the condition that if he brings her the agreed dowry by a fixed date, then the marriage stands, but if he does not, then there is no marriage between them, the marriage is always annulled, whether he brings the dowry by the fixed date or not."

This is despite their saying, "If someone places a condition in a sale that nullifies it but then agrees to waive the condition, the sale is valid." And they say, "Sales are similar to marriage," to the extent that they invalidate marriage during the call to Friday prayer, because of a *qiyās* of it to sales (as Allāh prohibited sales during the call to the friday prayer).

Then they say, "If someone marries a woman with a specified dowry to be paid later, and then agrees to waive the condition and expedite the dowry, the marriage is valid. But if he refuses to waive the condition, the marriage is annulled."

And they say, "Whoever says to someone, 'If you bring me suchand-such by such-and-such time, then I will marry you to my daughter soand-so,' and he brings the specified thing at the specified time."

They say, "It is not permissible for him to fulfill this condition. If he performs the marriage based on this condition, the marriage is annulled forever."

And they say, "If someone marries his female slave to another person's slave, and they agree that whatever children are born will be free, the marriage is with that condition annulled forever and the owner of the female slave is obligated to free the children according to the condition."

And they say, "If they make a condition that whatever children are born will be jointly owned slaves between them, the marriage is valid, and the children belong to the owner of the female slave, and the condition is void."

So in the first case, the marriage is void, and the condition is upheld, but in the second case, the marriage is valid, and the condition is void—this is a clear contradiction.

And they say, "If someone marries a woman on the condition that she will receive a specified amount of maintenance, and he consummates the marriage." They say, "The condition is invalid, but the marriage is valid, and she is entitled to the maintenance of women similar to her."

And they say, "If someone marries a woman on the condition that the authority (to divorce) will be in her hands if he marries another wife," they said, "The marriage is valid, and the condition is upheld, so the authority is in her hands if he marries another."

And they say, "If someone marries a woman on the condition that he will not spend on her, and she accepts that and bears witness to it, but then she changes her mind after the marriage is consummated," they said, "She has the right to demand maintenance, and that condition is not binding, and the judge will rule in her favor."

And they say, "If a man marries a woman for a dowry of one hundred and when they were about to finalize the agreement, they say, 'She will reduce fifty for you on the condition that you do not move her from her house,' or, 'from her child,' and he agreed, so they married him based on that condition, and he and she both consented, and witnesses were present. Then later, he changed his mind and wanted to move her." So they said, "He has the right to do so, but he must pay her the full one hundred, and neither of them is bound by the condition they agreed upon." If she had said to him, "I will marry you for one hundred and reduce fifty on the condition that you move me," and he said, "Yes," and they both witnessed it, but after marrying her, he wanted to move her, they say, "He has the right to do so. His condition that he would not move her is annulled, but her condition, in which she waived fifty, is binding on her, and she cannot reclaim it."

And they say, "If he said to her, 'If I move you, your decision (to divorce) is in your hands,' then that is binding on him." They say, "If he said to her, 'If I am absent from you for a year, your decision (of divorce) is in your hands,' he may have intercourse with her before being absent, and that does not invalidate the condition he gave her."

And they say, "If he said to her while she was pregnant, 'Once you give birth, your decision is in your hands,' and then had intercourse with her



after saying this but before she gave birth, the condition he gave her is invalidated."

And they say, "If a man divorces his wife and stipulates that she is responsible for the expenses of their child for six years, she is only obligated for two years of nursing, after which the expenses revert to the father (the husband), and she is no longer responsible for what condition she had made."

And they say, "If a man divorced his wife and she gave him money in exchange for him not having the right to take her back (no *raj 'ah*)," they said, "This is binding on both of them, as if it is a *khul* 'divorce."

And they say, "If they make a condition in *khul* 'that, 'If you dispute with me, you will remain my wife,' and she disputed with him, she still has the right to divorce, but the condition is invalid and does not apply."

We say: Why do they not say that the condition is binding, just as they said in the previous case where it was like a *khul* ?

And they say, "If a man owes his wife a debt, and they agree to a *khul*' on the condition that he would give her half the debt and she would forgive the other half," they say, "The divorce is valid, and the forgiveness is valid and binding. However, she must return to him what he had already paid, and the remainder of the debt remains due at its original time."

This is while they compel the master of the *mukātab* and a debtor to take what was given to them in advance, which contradicts what they did in the case of the woman.

And they say, "If a female slave married to a male slave said, 'If I am freed, I have chosen myself,' or, 'I have chosen my husband,' and she testified to this upon herself, they say, "This means nothing, and it does not bind her. She retains the right to initiate the choice again if she is freed."

And they say, "A slave or a free man who says, 'If I marry such and such woman, she is divorced,' or if he said, 'She is like my mother's back $(zih\bar{a}r)$,' if he marries the woman he said this about, she is divorced and does $zih\bar{a}r$."

And they say, "If someone says, 'If Zayd authorizes me to divorce his wife such and such, she is divorced,' and Zayd authorizes him to divorce that woman. She is not divorced unless the authorized agent initiates the divorce; if he wishes, he can divorce her, and if he wishes, he can refrain."

And they say, "If someone says, 'If I divorce my wife, she is immediately taken back (with raj 'ah) by me,' and then he divorces her. Then a raj 'ah does not occur by that unless he initiates raj 'ah, if he wishes."

And they say, "If someone sells a slave girl with the condition that she be freed, then that is valid and binding. If someone sells her with the condition that she cannot be sold. That is invalid and the sale is annulled unless the seller agrees to waive the condition, in which case the sale is completed, and the condition is waived."

And they say, "If someone sells a commodity for an unknown price, the sale is annulled. If he sells half of his slave girl to Zayd and conditions that the buyer is responsible for her maintenance for a year. If this is binding during life and after death, the condition is valid."

There is nothing more uncertain in price than this, due to the variance in food consumption, health, and sickness.

And they say, "If someone sells a commodity for a specified price, with the condition that he will invest the price for him for a year, there is no harm in that if he is obliged to replace the price if it is lost."

This is while they do not allow *muḍārabāḥ* with a fixed term.

And they say, "If someone knows the volume of a heap of food, and the buyer purchases it in bulk and says to the seller, 'I do not care whether you, the seller, know its volume or not, and we have agreed to the sale on this basis."

They say, "This condition does not bind the buyer, and he has the right to return it if he wishes."

They said, "If the seller does not know the volume but sells it in bulk. The sale is binding on the buyer, and he has no right to return it."

The contradictions in what they consider binding/obligatory in contracts and conditions and what they declare invalid are too many to count or encompass except over a long period. What we have mentioned suffices for one who understands. The Ḥanafīs are like them in this regard, and Allāh is the source of strength.

Since the certain decisive evidences have been established for everything we have mentioned, it is obligatory that every contract, condition, covenant, or vow that a person commits to is nullified, invalidated and rejected, and nothing of it is binding upon at all, except there is a nass or $ijm\bar{a}$ indicating that the specific thing which they committed to by its



wording and exact form is obligatory upon them. If a nass or $ijm\bar{a}$ exists, it is binding; otherwise, it is not.

Since everything we have mentioned has been established with necessary certain decisive evidences. It is established that everything that is false with an attribute, a condition or a contract (as all of it is not from the Qur'ān and Sunnah), then if that attribute, condition or contract becomes false at the time of making the contract, then that thing (contract) will never be valid at all. And that contract becomes annulled forever.

Because that what the validity of is connected to that what is not allowed, then it is not valid. For something cannot be valid if its completion depends on nothing except that (then that is not done in a valid manner, so it is then invalid). This is a matter known by necessity. And by that it becomes obligatory to invalidate every marriage that is made with a false condition or a false attribute. Likewise for every sale that occurs on what is not allowed, all of that is annulled forever. And by that it obliges the invalidity of every prayer prayed in a place that is stolen which the one praying knows it is stolen. And in every prayer in which a person does that which is not allowed. And by this the slaughtering of the one that stole the animal or slaughters with a stolen knife becomes prohibited, and Allāh is the source of strength.

And with all of this, it has been established that every contract, covenant, vow, or condition that a text has obliged or permitted the obligation of, is binding and obligatory. So whoever claims that any of this has been nullified, their claim is false. All of it remains as binding as it was unless the one claiming its invalidity brings a text indicating its invalidity. In such a case, one must adhere to what the text necessitates.

An example of this is that *ijārah* (hiring, leasing, clients, contractors, tenants) is a contract for which there is a text allowing it and permitting its obligation, and the evidence from the text and *ijmā* 'affirms that *ijārah* without a defined term (if it is on property/real estate) or for an undefined task (if it is not property/ real estate) is invalid and rejected, and it is not permitted because it is consuming wealth by false means. *Ijārah* in the manner we mentioned is prohibited and rejected by the *ijmā* 'of the entire

ummah, whether among those who permit it or those who forbid it, based on the text.

There is no other than for an *ijārah* to be with a fixed term *ijārah*, or there is no term at all, and no third category is possible in any way. As one of the two mentioned categories is invalid by necessity, and since the text has come allowing *ijārah*, it is necessary that the other category (with a fixed term) is valid. So it is established that specifying a defined term in *ijārah* is necessary by the text and by the two premises of $ijm\bar{a}$ we mentioned. And also if it is not described in the manner we mentioned then it is an unknown contract and an unknown contract is taking wealth by false means. Since that is established, specifying the term in a lease contract is a valid condition. And as that is the case, the contract is valid. What is valid in the present moment cannot be invalidated later except by a text. So it is established that neither the lessor nor the lessee has the right to annul what they have contracted as long as they are alive, and as long as the ownership of the leased object has not transferred from the lessor, and as long as the leased object itself remains intact. If the ownership transfers or one of them dies, the lease contract is void, based on the word of Allāh, Exalted is He, "And every soul earns not except against itself" [6:164]. The validity of the ijārah contract does not prevent the lessor from selling the property that he has leased, even if that leads to the annulment of the contract because selling is permitted for him by the text. Selling his property is not an invalidation of the contract, but rather what nullifies that contract is the ownership of the object passing to someone other than the one who made the contract concerning it because of the sale or other means by which ownership is transferred such as gifts.

And some of them said, "If you prevent the annulment of an ijārah contract, a manumission contract, a deferred emancipation contract, and an emancipation contract with conditions, and then you allow the contracting parties to transfer ownership of the properties over which they made these contracts, and that nullifies the contracts, then you have contradicted yourselves and allowed the nullification of the contracts."

It is said to them and Allāh is the source of strength: We have never prevented anyone from doing with their property what is allowed for them before the contract they made over it, and that contract does not prohibit them from doing with their property what was and is allowed for them, such as



transferring ownership of it. And the one making this claim is imposing rulings in religion without certain decisive evidence from Allāh.

And we only prevent the annulment of a contract based on the person's statement when they have contracted it, from what was permitted for them to contract or ordered to do so. But this objection of them against us only applies to those who use $qiy\bar{a}s$, by which they prohibit what is not mentioned in the Qur'ān and Sunnah based on the prohibition of what has been ordered to be forbidden.

And pawning and other similar issues are the same as we have mentioned. There is no *naṣṣ* that prevents removing a pawned object from its status through sale or emancipation.

As for those who deny this, they have contradicted themselves in the most disgraceful contradiction and have said the very thing they denied of us, meaning the followers of Mālik. They said, "The testimony of women is not accepted at all in the matter of emancipation."

Then they said, "If two women testified about a debt on Zayd to 'Amr, 'Amr would take an oath with them, and the emancipation of the slave whom Zayd emancipated would be nullified, and 'Amr's debt surrounds his wealth." So, they permitted the nullification of the emancipation through the testimony of women.

Likewise, they said, "If two women testified about the purchase of a female slave by Zayd and 'Amr, their testimony is accepted along with the oath of the seller, and the marriage to the female slave would be annulled."

And this is just one of many examples for them.

Whoever is hired (by $ij\bar{a}rah$) for a specific job/task, it is a contract that has been permitted by naṣṣ, and those who affirm leasing agree that it is binding from the moment of its contract. But they differed on whether it could be annulled immediately or not. So, it is obligatory to remain on what the evidence has come with regarding its validity unless there is a naṣṣ to annul it

The same applies to the *mudabbar* (a slave promised emancipation upon the master's death), to the one who makes a will for emancipation, and the one emancipated with conditions, and to the *mukātab* (a slave who enters a contract to buy their freedom). These are contracts that people have agreed upon based on the texts confirming their validity at the time of their conclusion, and that they must be enforced unless the one who made the

contract retracts it. Then, they differed as to whether the one who made the contract can annul it after its conclusion or not. It is obligatory that there be no retraction in any of them except by what text obliges retraction of it, and there is no text or ijmā 'allowing retraction in these cases, neither by mutual agreement nor otherwise. So, it is not permissible at all, unlike *ijārah*. The removal of ownership, as in all the mentioned cases, is permissible, and the contract of *ijārah* is voided by the transfer of ownership, as we said in the case of leased property, and there is no difference.

As for the *mukātab* only that portion of him is removed from ownership which he has not yet paid. In that portion, the contract is void, but not in what he has already paid (this is specific for the *mukātab*). This is also the saying of 'Alī and his narration from the Prophet \(\section \).

The text has also come permitting the sale of the *mudabbar* and the sale of the $muk\bar{a}tab$ who has not yet paid³⁴¹.

So this must be permitted. Among those who permitted the lessor and the lessee to annul the lease whenever either wished (which is false), before the term ends, even if the other dislikes it, are Masrūq, Shurayh, and Al-Shā'bī342.

Among those who held that there is no retraction in the specific case of waşiyyah for emancipation are Al-Awzā'ī and Al-Thawrī.

As for lending (al-'ariyah), it is different from what we mentioned because an indefinite 'ariyah without a specified term is what has been established by texts and $ijm\bar{a}$. As for stipulating a term in it, that condition is invalid because it is a condition that is neither in the Book of Allāh nor established by any text or $ijm\bar{a}$. So, it is invalid. The majority say that lending with a stipulated term is of no significance, and it is a condition that is not obligatory. Since its validity is not agreed upon, it is invalid.

Similarly, a promise with lending or to lend is not binding for the reasons we mentioned before.

The same applies to the daman of money that is not yet due and damān al-wajh (appointing a place to show up when fulfilling a right) all of this is invalid because they are conditions for which there is no text or $ijm\bar{a}$

³⁴¹ Al-Muşannaf by Ibn Abī Shaybah 4/508 | Al-Sunan Al-Sughrah by Al-Bayhaqī 4/224 | Sharḥ Al-Mushkil 11/173-174

³⁴² Al-Musannaf by 'Abd Al-Razzāq 8/190 | Al-Musannaf by Ibn Abī Shaybah 4/557



affirming their validity. Because they are conditions for which no nass nor $ijm\bar{a}$ has come for their validity.

Based on what we mentioned, the $\underline{dam\bar{a}n}$ of spending for Zayd or for someone upon whom no text or $\underline{ijm\bar{a}}$ has obligated spending is invalid, as is the $\underline{dam\bar{a}n}$ of a dowry for someone who has not yet married.

Based on what we mentioned, it is obligatory to allow either party in a partnership or $mud\bar{a}rab\bar{a}h$ (sleeping partnership) to withdraw whenever they wish, even if the other dislikes it, because the stipulation of a term is invalid, as there is no nass or $ijm\bar{a}$ 'permitting it.

The same applies to every condition stipulated by the one who gives something in a trust or endowment (habs) for a limited time or for its sale if needed—all of that is invalid for the reasons we mentioned. Likewise, if it is stipulated in a gift, ' $umr\bar{a}$, or $ruqb\bar{a}$ (types of gifts by conditions) that something may be taken back, all of that is invalid for the reasons we mentioned. This is different from the obligation to mention a term in $ij\bar{a}rah$ and from the obligation to return the lend property (' $\bar{a}riyah$).

As for $dam\bar{a}n$ of what is already due obligatory from money, it is a contract unanimously agreed upon as valid, and there is text affirming it, as is the case with the transfer of debt $(haw\bar{a}lah)$. Since both are established in this manner, no one may retract from them for the reasons we mentioned: that what is valid from the beginning cannot be invalidated later except by a text or $ijm\bar{a}$. The same applies to endowments, gifts, charity, and ' $umr\bar{a}$ — all of these have exited from ownership and have been given, and to retract from them would be a gain over another's right, and there is an explicit text nullifying that. Allāh the Exalted says, "Every soul earns only against itself" [6:164].

As for a deferred loan, there is an explicit text that affirms it with the term. Since it is affirmed by the text, it is established, and no one may retract from it if the term was stipulated as part of the loan, based on the saying of Allāh the Exalted, "And when you contract a debt for a specified term" [2:282]. If the contract is concluded without stipulating a term and then a term is later added by one party, that is a corrupt condition and is not binding. The debt remains as it was, immediately due, because the added condition is not in the Book of Allāh, nor is there *ijmā* 'that it is binding, so it is invalid.

As for farming partnerships $(muz\bar{a}ra'ah)$ and sharecropping $(mus\bar{a}q\bar{a}h)$ contracted for a term, some people claimed, "All who permit

specifying a term, have permitted them with a specified term. Therefore, the term in them is a valid condition. And if it is valid at the time of the contract, it is obligatory. And if it is obligatory at the time, it cannot be invalidated later except by a text or consensus. There is no text or $ijm\bar{a}$ on this except by mutual agreement between them, due to consensus on that."

This is incorrect. Indeed, $iim\bar{a}$ has been established on their contracts without a term, and no one from the Companions or the *tābi 'īn* has permitted them with a term. So contracting them with a term is entirely invalid because there is neither text nor $ijm\bar{a}$. It is a condition not in the Book of Allāh, and it is invalid by the ruling of the Prophet #

Mutual agreement between the contracting parties does not make an invalid contract valid or an invalid condition valid by text or ijmā '. Then their mutual agreement to annul or defer it does not make it permissible. Their consent to annul or defer is invalid, and the contract and condition remain as they were, unless a text permits them to mutually agree to annul it. In that case, they may do so. Otherwise, they cannot because no one has the authority to obligate, prohibit, or permit except by text. Whoever exceeds this has exceeded the limits set by Allah and has legislated something in the religion that Allāh has not permitted. Allāh says, "Or is there for man whatever he wishes?" [53:24]. All are slaves with no order or ruling for them except what has been decreed for them by their Creator and Master, the Almighty.

As for marriage and sale, the texts have described their contracts and their annulments. No one can contract them in a manner other than how it is described. If someone does, it is neither a valid marriage nor a valid sale and is always rejected and nullified. And whoever contracts them as it is ordered in a valid manner has no right to annul them except in the manner specified by the text. Otherwise, the annulment is invalid and rejected, and the contract remains as it was.

The sale of a female slave who has borne a child is prohibited by the . The disagreement on this is not considered.

And the text permits gifts and obliges accepting the gift of whoever gives it and prohibits retraction. So retraction is not permitted in any gift or charity except in the case of giving to one's children only, as specified in the text. There is no text or consensus on other cases regarding the retraction of habs, it is not permissible by mutual consent or otherwise. It is not permissible at all.

If someone says, "You do not obligate anyone to fulfill their pledge or promise unless a text obligates it upon them, and according to your view, the promise and warning of Allāh are binding, and there is no possibility of deviation in them."

Then the answer is that what we say is that it is not permissible to exceed this because we are ordered and have no right to obligate ourselves to anything except what our Creator has ordered us. So obliging ourselves to do something for which there is no text or $ijm\bar{a}$ is false as we clarified that all of those things are obligations in reality. All $\bar{a}h$, the Exalted, is not like that because there is no authority above Him; whatever He decrees is binding, and whatever He says is truth.

And also our promises are not like news because we do not know what will happen in the future. Allāh, the Exalted, is not like that because He is knowledgeable of what will happen before it happens. Therefore, everything He informs us He will do must be done. Anyone who permits otherwise is permitting falsehood in Allāh's statements, and Allāh is far above that. Allāh, the Exalted, says, "The truth [is My oath], and the truth I say" [38:84] Whatever contradicts the truth is falsehood; Allāh is far above falsehood. Therefore, Allāh's promise and threat are news that must be true because they are truth and honesty, and His knowledge of it is accurate and cannot be false at all.

Let not anyone think that we say as the Mu'tazilah say that one bad deed can nullify all good deeds or eternal punishment for those who persist in major sins. We seek refuge in Allāh from that.

We instead say as what has come in the texts about balancing of deeds and that good deeds erase bad deeds, meaning that good deeds remove bad deeds. And those whose good deeds equal their bad deeds, or whose good deeds outweigh their bad deeds, will not see the Fire at all

But those whose bad deeds overweigh and their major sins of whose who died permitting on it, then they will be taken out from the fire with the $shaf\bar{a}$ 'ah and there is no eternal hellfire for the Muslim, and no $k\bar{a}fir$ will ever enter Jannah, and Allāh is the source of strength. and He is the best disposer of affairs



Chapter Twenty-Three: Ruling Based On The Least Of What Is Said (*Agallu Mā Qīl*)

A group claimed that this is also a type of $ijm\bar{a}$ that is true without doubt. They said, "Since Allah, the Almighty, has made it obligatory for us to follow $ijm\bar{a}$ and text, and has forbidden us from speaking without certain decisive evidence, when people have ikhtilāf on something, and some of them oblige a certain amount (in issues such as expenditures, compensations, blood money, some forms of zakāh, and the like), while others oblige more than others, and they differ on what exceeds that, then it is obligatory for us to follow the ijmā'. As for those that add amounts, it is their claim. If they establish evidence of its obligation from the text, we accept it and adhere to it. If there is no textual evidence for it, their statement is discarded, and they are wrong before Allah, the Almighty, with certainty, without doubt. And we are right before Allah, the Almighty, with certainty, in taking the least amount of what has been said, because that is the amount of what is agreed upon by all and this agreement is from Allah, the Almighty. Following what has been agreed upon is an obligation, without doubt, and disagreement is not from Allah, the Almighty. Allah, the Most High, said, 'If it had been from other than Allah, they would have found much contradiction in it' [4:82]."

The answer: This would be correct and true if it were possible to account for the statements of all Muslims in every era. And since this is not possible, striving for it is a pointless effort. A nass must be there for every ruling in the $shar\bar{\iota}$ ah. So when a nass obliges an action, then by performing the least of what is considered fulfilling the order, the obligation is fulfilled. Like the one that is ordered to give charity, then by giving anything, they have fulfilled what they were ordered to do. No additional amount is obligatory, as that is a claim without nass, and there is no limit to that obliged act. So, it is false. And there is no way that Allāh has a ruling in the $shar\bar{\iota}$ ah which we are obliged for which he has not made in the nass. Allah, the Most High, said,



"We have neglected nothing in the Book" [6:38]. So, whatever is not in the Book is not part of the religion in any way and is definitively lifted from us.

Some people said, "Rather, we take the most of what has been said because a person is not absolved of what is obligatory upon them except with certainty, and certainty is only after encompassing everything that has been said."

The answer: This is false, because by saying this, the person is asserting something without knowledge and affirming a ruling without certain decisive evidence, which is prohibited by the text of the Qur' \bar{a} n and by the $ijm\bar{a}$ of the Ummah.

And everyone who opposes us on this fundamental principle necessarily contradicts themselves and returns to agreeing with us. Don't you see that we all agree on the obligation of five prayers, and some claimed that the *witr* prayer is obligatory? So it is obligatory to follow what we agreed upon and leave what is disputed, unless they bring certain evidence for the addition.

Likewise, we agree that for $zak\bar{a}h$ every fifty cows, oblige one cow, while a group said that for every five cows, one sheep is required. Another group said that for thirty cows, a young cow is required, and for forty one cow. And another group said that for forty cows, another portion is required based on the increase from forty³⁴³.

So it is obligatory to take what we agreed upon and leave what is disputed, unless they bring proof for their claim. It is obligatory for no one except to give one cow for every fifty cows, which is agreed upon by them and others, not to increase the required compensation for that.

Then we say to those who oppose us in this fundamental principle: What if the people agreed on a certain amount, but then some said there should be more, but they did not bring certain evidence to validate their statement—would you have any option but one of three for which there is no fourth? Either you say by what is agreed upon and leave what has *ikhtilāf*, which is our view that you oppose, or you take the most of what was said without certain evidence, claiming something without knowledge and affirming a ruling without evidence. This is forbidden by the text of the Qur'ān and by the *ijmā* of the *Ummah*, and no one has ever said this. The one who says it, is either violating someone's forbidden honor, someone's

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 $^{^{343}}$ Al-Muṣannaf by Ibn Abī Shaybah 4/22-26

forbidden wealth, or obligating something in the sharī'ah without Allah's permission, and all of this is prohibited, never allowed. Or you abandon these two views and completely separate yourself from the $ijm\bar{a}$ completely, coming up with a statement that no one has said. So, since these two sayings have necessarily fallen by decisive evidence, the first saying is necessarily and certainly correct, with no escape from it, and by the grace of Allah, the Almighty.

If someone says, "It is not possible for either of the two sayings to be devoid of evidence. Either the evidence indicates the validity of the saying by the least amount, or the evidence indicates the validity of the larger amounts."

We do not need to prolong the discussion here. Rather, we say, and by the grace of Allah, the Almighty: We do not dispute with you concerning what evidence has established. We only ask you about an issue where some have stated a certain amount, while others have stated a larger amount, with no evidence in their hands. The situation is that the issue is from the issues of mere $ijm\bar{a}$, in which the nass has referred the matter to the obedience of those in authority among us and the following of the believers' path. If you then say, "The absence of evidence for the validity of a larger amounts over the least amount that has been said is itself evidence for the validity of the least amount said," this is exactly our statement, whether you like it or not (the least amount of what applies on the words of the ruling of which the obligation is $mans\bar{u}s$, that is that which is obligatory by $ijm\bar{a}$). And by the grace of Allah, the Almighty.

Some of those who insisted on opposing this issue, and who were driven to create confusion, argued with examples like the one we will mention. One of them said, "What is the difference between you and someone who says that this is a ruling which is established by $ijm\bar{a}$, and a person cannot abandon what has been established by ijmā unless there is another ijmā 'that invalidates it? Therefore, it is obligatory to follow the most of what has been said."

We say to him: This is a corrupt deception because you are trying to mix two different matters and make them one, which is not valid. Because the obligation of a ruling in an issue is one thing, while the obligation of a specific amount in that ruling is another matter altogether. The $ijm\bar{a}$ of the Ummah on the obligation of a ruling does not imply that a specific amount within that ruling is obligatory. These are two different chapters. So when a ruling is obligatory, we then consider the amount obligatory in that ruling based on an explicit naṣṣ. If no naṣṣ exists, we refer to $ijm\bar{a}$ '(the least amount of what applies on the words of the ruling of which the obligation is $manṣ\bar{u}ṣ$, that is that which is obligatory by $ijm\bar{a}$ '). The number agreed upon must be accepted by $ijm\bar{a}$ ', and whoever claims an additional amount must provide certain evidence. If they provide it is obligatory to follow it; otherwise, their claim is rejected by Allah's statement, "Produce your proof, if you are truthful" [2:111].

From this type we know that we are obliged the religion and rulings, except if there is someone that claims the obligation of something making it from the *shar*'. His claim is discarded and not accepted except with a *naṣṣ* or $ijm\bar{a}$ '. Likewise, we know the obligation of a certain ruling upon us, but that does not oblige us to accept the specific limitations made by anyone of that ruling from anyone unless they indicate it with a *naṣṣ* or $ijm\bar{a}$ '.

All of this belongs to the same category, and the fundamental principle is that no one is obliged any ruling, nor is anything prohibited by Allah's statement, "It is He who created for you all that is on the earth" [2:29], and by His statement, "O you who have believed, do not ask about things which, if they are shown to you, will distress you. But if you ask about them while the Qur'ān is being revealed, they will be shown to you. Allah has pardoned that, and Allah is Forgiving and Forbearing. A people asked such [questions] before you; then they became thereby disbelievers" [5:101-102], and by the saying of the Prophet, "Indeed, your blood, your wealth, your honor, and your skins are sacred to you, as sacred as this day of yours."

So it is not allowed for anyone to take another's wealth, blood, honor, or skin, except what is made permissible by nass or $ijm\bar{a}$. Anything beyond this is invalid according to the texts we mentioned.

So the least amount of what applies on the words of the ruling of which the obligation is $man s \bar{u} s$, that is that which is obligatory by $ijm\bar{a}$. And any addition to that is invalid and false unless its claimant brings forth a text to support their statement. The aforementioned text makes it clear that if the people agree, or a text establishes the obligation of a specific amount regarding a Muslim's honor, skin, or wealth, then that obligation stands.

Then, if someone claims the obligation of an addition and does not provide a text to prove the validity of their claim, it is invalid by certainty, as nothing can be imposed that Allah has prohibited (or oblige that what is not obligatory). The same applies to anyone who forbids something what is on the earth, except for what has been forbidden by a text or $ijm\bar{a}$. Similarly, anyone who imposes an additional obligation beyond what has been established as obligatory by text or $ijm\bar{a}$ is invalid. This clarification is sufficient.

It implies, for anyone who disagrees with this—if they are Māliki or Shāfi T—that they must then obligate zakāh on honey because the Ummah is unanimous that there is zakāh on wealth, based on Allah's statement, "Take from their wealth a charity" [9:103]. So they are implied, to acknowledge that this obligatory right cannot be removed by $ijm\bar{a}$ except by another $ijm\bar{a}$. Likewise, it implies the Ḥanafī, that he must obligate zakāh on jewelry and working animals, based on what we have mentioned. And in this way for many other issues, nullifying many of their own sayings and invalidating the majority of their views on prayer, purification, pilgrimage, and all other chapters of figh. And with Allah, the Almighty, is success.

If someone says, "When you argue that if this additional statement were obligatory, there would be evidence for it, what do you say to someone who tells you that if it were invalid, there would be evidence for its invalidation?"

The answer: This saying is correct, and verily have already provided the texts that invalidate any statement concerning prohibition, permissibility, or obligatory rulings for which there is no evidence of its validity a nass or $ijm\bar{a}$. Those are the verses we recited earlier (and in many places earlier in this book). From this, it is obligatory to accept and fulfill every agreed-upon obligation or requirement, and whoever adds anything to this through is a fabricator according to those texts recited earlier, unless they bring certain evidence from the texts to indicate their claim. This is a clear matter with no ambiguity, and only the misguided or obstinate deviates from it.

This principle applies only to matters where no text exists. As for matters where a text does exist, we do not take into consideration what is agreed upon from it and we do not care who opposes us then. Nor do we rely on istishāb ul-hāl nor the least of what has been said. Rather we take the nass whether it is an addition to what is agreed upon or is lesser than it or aligns with it because in that case, the certain evidence has been established and the evidence is clear of moving to where the nass is, then it is established to take from the addition to the least of what had been said.

And even if in narrating the addition mentioned in the *naṣṣ* is only by one *thiqah* alone and he is opposed by the whole earth, it is obligatory to take what that one narrated, because the truth is with him and it would be obligatory to oppose everyone that opposes that one narration, even if they are everyone on earth other than him. Because all of them are then upon falsehood and they are obliged to follow that one narration. And the truth precedes than everyone that opposes it and most deserving of being followed.

Allah, the Almighty, says, "O you who have believed, upon you is [responsibility for] yourselves. Those who have gone astray will not harm you when you have been guided. To Allah is your return all together" [5:105]. Allah made this general and did not specify.

Allah also said, "You are not held responsible except for yourself" [4:84].

If someone says, "What do you say about two witnesses, one of whom testifies for Zayd against 'Amr with a claim of one $d\bar{n}a\bar{n}r$, and the other testifies for him against 'Amr with a claim of two $d\bar{n}a\bar{n}rs$? Do you rule based on the lesser amount that they both agree on?"

The certain evidence from the text have established the obligation of ruling for him with one $d\bar{\imath}n\bar{a}r$ based on their testimony, and from another text, it is ruled for him with the remaining $d\bar{\imath}n\bar{a}r$ if the plaintiff takes an oath on what he has witnessed. This is an example where the evidence supports the obligation to judge with the additional amount.

Some of our opponents have said, "The one who ruled by the least of what was said did not do so merely because it was the least amount, but instead because of specific evidence that obligated it according to him. So use his evidence so that we can debate it."

The answer: We do not concern ourselves with the <code>istidlāl</code> (the method a person uses to derive a ruling) of those who make <code>istidlāl</code>, because a person might rely on a <code>dalīl</code> that is not valid, but through investigation, they might arrive at the correct conclusion, as happened with Ibn Masʿūd when he was asked about a woman whose husband passed away before consummating the marriage and before determining a dowry for her. After a month, he said, "I will give my opinion, and if it is correct, it is from Allāh, and if it is wrong, Allāh and His Messenger are free from it." Then he issued a ruling that aligned with the truth based on the actions of the Messenger of Allāh ***, without his prior knowledge of it. So we are not concerned with the <code>istidlāl</code>

of Ibn Mas'ūd's; instead we do not adhere to it at all. We only follow what he arrived at because it coincided with the ruling of the Messenger of Allāh 3 . So when we find that a person has determined a certain amount and all the scholars, from the first to the last, agree with him, then Allāh Almighty has made it obligatory for us to follow this $ijm\bar{a}$ and not to deviate from the path of the believers and those in authority among us.

We are not concerned with their istidlal, as Allah Almighty has not ordered us to follow the istidlal of an individual or a group of scholars, but rather to follow what they have unanimously agreed upon and to leave what they have disagreed on, returning it to be judged by the Qur'an and the Sunnah. We have done this and taken what they unanimously agreed upon, which is the lesser amount, as it is said in the verse, "O you who believe, obey Allah and obey the Messenger and those in authority among you" [4:59].

So it is not permissible for a Muslim to oppose this. And we oblige the one that adds an amount with his ihtivat to bring certain decisive evidences from the nass if he is truthful, by the saying of Allāh "If you disagree over anything, refer it to Allah and the Messenger" [4:59]. If he comes with certain decisive evidences from the Qur'an and Sunnah, we accept it from him, otherwise we abandon his saying, because the one that does not come with certain evidence is not truthful because of the saying of Allāh, "Say: Produce your certain evidence if you are truthful" [2:111].

Everyone with 'aql knows that istidlāl (the way of deriving a ruling) on a saying is something distinct from the mustadall 'alayh saying (the ruling that is derived). Some people have arrived at correct conclusions through taglīd, while taglīd is false. However, investigation led them to these conclusions, and they happened upon correct sayings that align an authentic narrations which they had never encountered before, nor had they made istidlal from them. Anyone who knows the sources of the 'agl knows that false source can sometimes lead to a correct conclusion, but that is not reliable and often deceives. So, it has become clear, based on what we have mentioned, that someone can be mistaken in the way they derive their evidence but still reach the correct conclusion, while they are sinful for reaching the correct ruling by false methods.

It is also evident that a person may start with the right istidlal but fail to apply it at its fullest, leading to an incorrect conclusion. A group of people have used authentic narrations as istidlāl but then made ta 'wīl of them in ways



that were not present in the texts, or they drew $qiy\bar{a}s$ from the text to things not mentioned in them. So they were correct in their reliance on the text but wrong in applying it to matters that does not exist in that nass.

And Sa'd used as *istidlāl* for the prohibition of wheat in general, the prohibition of the Prophet $\stackrel{\text{de}}{=}$ on exchanging fresh dates with dried³⁴⁴. So it is established that it is not upon us to follow the *istidlāl* of those giving *futyā*. It is only upon us to follow the *futyā* if it is supported by the text or *ijmā'*, and we do not care if the one saying it is wrong in his *istidlāl* or not. And likewise we are obliged to abandon the *futyā* if there is no certain decisive evidence established from the *naṣṣ* or *ijmā'*. Even if the one saying it makes *istidlāl* with an authentic text except that he assumes that that text necessitates what he gave $fatw\bar{a}$ with. While that text in reality does not necessitate what he gave $fatw\bar{a}$ with.

And also, there are issues for which there is no naṣṣ narrated, but only a mere $ijm\bar{a}$ on a matter that the Prophet ordered, such as the $ijm\bar{a}$ of the people on $qir\bar{a}d$ (sleeping partnership) or the $ijm\bar{a}$ of groups regarding the obligation of the diyah (blood money) for a non-Muslim ($dhimm\bar{\imath}$) if killed by another non-Muslim, which is set at eight hundred dirhams or six camels and two-thirds of a camel.

Others have differed regarding the increase beyond this amount, with some making it equal to the blood money of a Muslim.

Others said, "It must be half the blood money of a Muslim."

Others said, "It must be one-third the blood money of a Muslim."

Those who oblige the amount of eight hundred *dirhams* or six camels and two-thirds of a camel used as evidence, "This is a matter what is agreed upon as obligatory, and any amount beyond that is disputed."

Al-Ḥasan Al-Baṣrī said, "The blood money for a Jew or a Christian is eight hundred dirhams." 345

Mālik and Al-Shāfiʿī said this amount is only for the blood money of the Magian which is also narrated from 'Uthmān' 346 .

And those who ruled that it must be half the blood money of a Muslim based their argument on narrations from some Companions and narrations

³⁴⁴ Sunan Abī Dāwūd 3359

³⁴⁵ Al-Muşannaf by 'Abd Al-Razzāq 10223, 6/128

 $^{^{346}}$ Al-Muṣannaf by 'Abd Al-Razzāq 10/98 | Al-Muṣannaf by Ibn Abī Shaybah 27455, 5/407

from the *tarīq* of 'Amr ibn Shu'ayb —» his father —» his grandfather³⁴⁷, which is a *sahīfah* that is not authentic.

And the Companions differed on this issue, so this saying is invalid. And those who ruled that it must be one-third of the blood money — this is the view of Al-Shāfi'ī and his companions — supported their stance with narrations from some of the Companions. But we said that the Companions differed on this matter, so the saying of some of them is not in of itself a hujjah against others.

Some of Al-Shāfi 'ī's companions argued that this is the least amount that was said, but this is false due to the earlier mentioned saying of Al-Ḥasan.

Others who have knowledge of ikhtilāf said, "We do not say that because of any of the previously mentioned things but instead based it on Allah's words, 'Then will We treat the Muslims like the criminals. What is [the matter] with you? How do you judge' [68:35-36]. So it is obligatory that a non-Muslim must not be equated with a Muslim or a Muslim woman, so their blood money must be reduced to one-third of the Muslim's blood money."

The answer: This is a false evidence, because they equate them (Muslims and non-Muslims) in matters like if a Muslim wrongfully seizes the property of a *dhimmī*, the *dhimmī* must be compensated for what was taken. They also equate them in the punishment for theft and in allowing each of them to take an oath in disputes. And they have made the blood money of a dhimmī greater than the blood money of a Muslim woman's hand or her eye, and they have equated it with the blood money for a ma'mūmah (a wound that reaches the brain) of a free Muslim man. There is no doubt that the sanctity of a single hair from a Muslim is greater than the sanctity of every dhimmī on earth, then how can they compare a limb of a Muslim to that of a non-Muslim?

And we find that in some cases they have given preference to non-Muslims over Muslims, saying that a free non-Muslim must not be fought if he fights a Muslim slave, thereby making the non-Muslim more sacred than the Muslim. This is a vile statement that makes the skin crawl. Based on this reasoning, they are implied to consider Abū Jahl and Abū Lahab as being of greater sanctity than Zayd Ibn Harithah and Bilal after their acceptance of Islām but before their emancipation—Exalted is Allāh!

³⁴⁷ Sunan Al-Tirmidhī 1413

Rather, the proper approach is to apply the statement of Almighty Allāh, "Then will We treat the Muslims like the criminals" [68:35], that there must be no equality between Muslim and $dhimm\bar{\imath}$ in retribution ($qis\bar{\alpha}s$) at all. As for the obligatory rights concerning matters other than the body, like dignity and sanctity, equality in these areas does not mean equality in value. There is no disagreement that in matters of property, Abū Bakr, the Companions, and the $dhimm\bar{\imath}s$ are all equal and Allāh is the source of strength, it becomes clear that a $dhimm\bar{\imath}$ must not be obliged with any financial penalty after paying the jizyah except what is obliged by a nass or $ijm\bar{a}$. And the $ijm\bar{a}$ has obliged either eight hundred dirhams or six camels and two-thirds of a camel and disagreement arose over additional amounts. Since no authentic nass has come for anything of that, it becomes obligatory to reject it and discard all of it.

If they argue based on making $taql\bar{\iota}d$ of a Companion in that, it is said to them: The Companion you are making $taql\bar{\iota}d$ of is no more authoritative than another Companion who disagreed with him, especially since $taql\bar{\iota}d$ is entirely invalid, false and prohibited, as we will clarify in a large chapter of this very book, by the will of Allāh.

If someone says, "You are being contradictory by your saying about the least of what is said in amounts that are obligatory for property, hudūd and any ruling with numbers, and you abandon increase on that except what naṣṣ obliges, yet you say that if that was agreed upon at a time, then a group of people claimed it is more, that the obligation is to continue and affirm what was agreed upon on its obligation, till those claiming it is more come with certain evidences on what they claimed. Then why do you not say, 'This ruling is not obligatory except for the duration of time which was agreed upon, without the time and people that differed, just as you say that you do not take obligatory amounts in property, hudūd, numbers except what is agreed upon no what is differed upon."

It is said to them, and with the help of Allah the Most High: This is weak and corrupt tumult. There is no contradiction between the two statements at all; rather, they are one and the same thing, and one category, because $ijm\bar{a}$ on the obligation of a ruling and the existence of a nass on it is like $ijm\bar{a}$ on the least of amounts and numbers of that ruling (what the wording implies). Both are confirmed by $ijm\bar{a}$. Then the claim of a change of the ruling of what it was upon, and the claim for the necessity of some of

what its wording implies and not all what it implies, that is a claim of an increase over the least amounts and numbers (what the mere words imply), and there is no difference. Both matters are oblige ruling without naṣṣ, and that is not permissible to follow. Our adherence to what we agreed upon as obligatory or permissible or prohibited and leaving what differs from what we agreed upon as obligatory in terms of amounts and numbers is no different. The nullification of the obligation after its obligation is like adding to it or reducing from it, and it is like changing it. There is no difference between all of this; it is all one category as you see. There is nothing to tumult by those who wish to obfuscate by differentiating between the two matters. Rather, those who obfuscated in that and those who were mistaken are mistaken. Because he saw one of the matters as an addition to what was agreed upon and the other saw it as abandoning from what was agreed upon, mistakenly believing that they are two different categories. But this is false. It is all one category because it is all a deviation from what we agreed upon without evidence and a deviation from the $ijm\bar{a}$ without certain evidence. It is all one category in our *madhab* because all of it is our confirmation of what we agreed upon and adherence to what $ijm\bar{a}$ has confirmed and refraining from deviation. And with the help of Allah the Most High.

And also no Muslim has ever said that if the Prophet # judged today with a ruling, this ruling would not bind people tomorrow except with a renewed certain evidence. Rather, the entire Ummah is united on the obligation of the text's ruling and its continuation until the Day of Judgment. Similarly, the Prophets ** ruling on an adulterer or thief is a ruling on every adulterer or thief until the Day of Judgment.

And in the same manner for everything that the text has ruled in its specifics and in the type of that specific thing forever. If this were not the case, and we seek refuge with Allah from such a presumption, the essentials of his prophethood in the future after him would be invalidated, which is disbelief from the one who believes it. So it is established that the Prophets # ruling in his time is a ruling that remains valid in every time, forever.

And no Muslim has ever said that if the Prophet # judged to take a dirham or to inflict ten lashes or to mandate two units of prayer or a fast for a day, that it necessitates thereby taking two dirhams, inflicting twenty lashes, mandating four units of prayer, or fasting for two days. Rather, these are the limits set by Allah the Exalted, which He has forbidden to transgress. And He



has informed that whoever transgresses them is among the wrongdoers, as He says, Exalted is He, "And whoever transgresses the limits of Allah has certainly wronged himself" [65:1].

This is a difference clearer than the sun, not seen only by the blind, and even if it may disappear in some places at certain times, and this is a certain evidence whose light never fades and is seen by every person of sound intellect and perception, from those addressed by religion.

And also, the least of what has been said is truth and certainty, for it is $ijm\bar{a}$, and our opponent agrees with us on its obligation. Any increase upon it is doubt, claim, and conjecture. It is not permissible to dismiss certainty with doubt, nor to abandon the truth for conjecture, nor to forsake what is obligatory due to mere claims. Allah the Exalted has forbidden that, as He says, Exalted is He, "They follow not except assumption, and indeed, assumption avails not against the truth at all" [53:28]. And what we have mentioned is sufficient for anyone with 'aql and sincere counsel for themselves, and by Allah the Exalted, success is granted.

If someone says, "You claim that $ijm\bar{a}$ and nass are two asls, and acting upon them is obligatory, yet you unrestrictedly take the additional ($ziy\bar{a}dah\ al$ -'adl) in the text and do not act upon what is certain therein, and you take the least of what is said in $ijm\bar{a}$, which is agreed upon. How is this?"

The answer, with the help of Allah the Exalted, is that $ijm\bar{a}$ we take is that what refers back to the nass and to $tawq\bar{\imath}f$, as we have clarified at the beginning of the chapter of $ijm\bar{a}$. We only adhere to it because it is certainty about an action or approval/acknowledgment of a known matter that the Prophet affirmed and did not deny.

The differing of those who mandate varying amounts in rulings does not transmit anything of this, but rather it is based on $ra^3\bar{\imath}$, $qiy\bar{a}s$, or $taql\bar{\imath}d$ —all of which are false and claims without evidence. So it is obligatory to abandon that.

As for an addition in the text from one of the narrators ($ziy\bar{a}dah$ al'adl), it is an authentic transmission, and acting upon an authentic transmission is obligatory. The reason for accepting the addition from a reliable narrator in narrations is the very same reason that necessitates accepting the least of what has been said in $ijm\bar{a}$: it is solely the acceptance of what has been authentically narrated from the Prophet . As for what has

been disagreed upon, and none of those differing has brought forth a text, it is not a transmission.

And the reason prohibiting the acceptance of taqlīd is the same reason that prohibits the acceptance of what someone adds beyond what has been agreed upon by him and other scholars by their $ijm\bar{a}$, without any evidence he comes to oblige addition. And this is all *taglīd*.

Some *shāfi 'iyīn* argued in defense of Imām al-Shāfi 'ī's stance—may Allah have mercy on him—regarding the blood money (diyah) of a Jew or Christian being one-third of that of a Muslim by saying that this was the least of what had been said.

And that is not the case. We have narrated from Al-Hasan that the blood money for a Christian or Jew is eight hundred dirhams, and it has been authentically transmitted from some of the earlier scholars that there is no blood money for them. So one-third of the blood money is not the least of what has been said.

As for us, we say: There is no diyah for a dhimmī at all—whether Jew, Christian, or Magian—if a Muslim kills them, whether by mistake or intentionally. And if a Jew, Christian, or Magian is killed by a Muslim, the least of what has been said is eight hundred dirhams or six camels and twothirds of a camel. Our certain decisive evidence for this is that Allah, Exalted is He, only mentioned the *diyah* for it if the killed person was a Muslim. This is the explicit text of the verses. Allah did not mention a blood money for a dhimmī. The Prophet said, "Whoever has a killed relative, his family has two choices: either to take the blood money or to seek retribution."348 And the Prophet *prohibited the killing of a Muslim for a disbeliever³⁴⁹. So the diyah is invalid if a Muslim kills a dhimmī, because the Prophet ≝ only made the diyah in intentional killing in a place where there is a choice in it or retribution. This is not applicable between a believer and a *kāfir* but it instead is between kuffār amongst themselves and believers amongst themselves. So, our statement is established, and by Allah's help, success is granted.

And it is prohibited to take anything from the wealth of a Muslim except by explicit text or ijmā'. As for if a dhimmī intentionally kills a Muslim, his *dhimmah* is nullified, and he must be killed, and all his wealth is

³⁴⁸ Şaḥīḥ Al-Bukhārī 104, 1832, 4295

³⁴⁹ Sahīh Al-Bukhārī 111

taken. The *walī* of the murdered has no choice in this matter, and there is no blood money.

The narration of 'Abdullah Ibn Sahl remains valid in practice, and it does not mention that the blood money referred to by the Prophet was for intentional killing, as they may have killed him by mistake. Nor does the Prophet's saying in that hadīth, "Do you swear an oath against a man so that he may be handed over?"³⁵⁰ indicate that if the man were to accept Islām, the walī of the murdered would have had a choice. It is not permissible to add to the narration what is not there. Sūrah Barā ah clarifies the rulings of ahl ul-dhimmah which is not allowed to transgress, it is the abrogating of all that was before it.

Some of those who agree with us in this chapter have argued against them, saying: "It is said to the one who claims that a ruling has been agreed upon in a given issue, and that absolution from that ruling is not possible except through another *ijmā* 'absolving it: If two upright witnesses testify that Zayd seized property from 'Amr, but the exact amount of the property is not established, then—based on your claim—it would be necessary to say to the accused: 'A right has been established against you, and you cannot be absolved until the person whose property was seized declares that you are free of all claims he has against you.' However, since there is unanimous agreement, without any dispute, that such a statement is not said to the accused, but rather it is said: 'A right has been established against you, so admit to what you wish, and swear an oath to deny what you reject, and nothing further is required of you,' this affirms the correctness of our stance in accepting the least of what has been claimed and invalidates your objection. With Allah's assistance lies success."

They also argued, saying: "Evidence for taking the least of what has been said is that if two witnesses testify against Zayd for theft, and one says it was a quarter of a $d\bar{\imath}n\bar{a}r$, while the other says it was a sixth of a $d\bar{\imath}n\bar{a}r$, the lesser of the amounts they agreed upon is taken. Thus, his hand is not severed, and he is only liable to compensate a sixth of a $d\bar{\imath}n\bar{a}r$."

These are two arguments that are necessary against *ahl ul-qiyās*, but they are not arguments that we are pleased with. Our reliance is solely on the necessary proofs that we have already presented, and by Allah, we seek protection.

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³⁵⁰ Sahīh Muslim 1669

This person also said, "If two appraisers differ in valuing a commodity, we take the amount they agree upon." He continues, "If someone were to ask us, 'Why do you accept ziyādah al-'adl in a narration from the Prophet and say that the one who brought the *ziyādah* has knowledge that the one who did not bring that *ziyādah* lacks? Why do you not say that in the case of the increased valuation, there is additional knowledge about the value of the commodity, so why not take it?' We say: This objection is flawed. Our response to this is that determining the value of a commodity is not of the same category as narrations about the Prophet # . A narration is a transmission based on direct observation, which establishes a ruling for all mankind and jinn. Estimating value, on the other hand, is part of testimony, which is only accepted when presented by two witnesses or by one witness accompanied by the claimant's oath. If there were another upright witness to support the increased amount, it would be accepted. In cases where an oath is required alongside the testimony, the claimant would swear an oath with the increased estimate and become entitled to the additional amount. All success is with Allah, and we seek refuge in Him."

What we say—and by Allah, success is granted—is that Allah, Exalted is He, said, "And there is no blame upon you for what you have done by mistake, but only for what your hearts intended" [33:5]. Then Allah, Exalted is He, made blood money (diyah) obligatory for the accidental killing of a Muslim, and this applies to both the Muslim and the dhimmī because of the generality of the address, as the obligation of blood money applies to all mankind and *jinn*. But then, no nass has come to obligate blood money for a dhimmī if killed accidentally, so it is completely waived, whether the dhimmī is killed by a Muslim or another *dhimmī*. It has been authentically transmitted from the Prophet ## that he said, "Whoever has a relative killed, his family has two options: either to take the blood money or to seek retribution."351 And it has also been authentically transmitted that the Prophet (*) said, "A Muslim is not to be killed for a disbeliever."352 So it is established that blood money is not obligatory in cases of intentional killing unless there is a choice made between the blood money and retribution, and this does not apply at all in the case of a Muslim killing a *dhimmī*.

³⁵¹ Sahīh Al-Bukhārī 104, 1832, 4295

³⁵² Sunan Ibn Majah 2658

So it is nullified that a Muslim is obliged pay blood money for killing a dhimmī, whether the killing was intentional or accidental. And if a dhimmī kills another *dhimmī*, he is included in this general ruling, and retribution or blood money applies between them. There are only two views on this matter: either what is agreed upon as obligatory, as Al-Hasan said, or the blood money that the Messenger of Allah # ruled for a Muslim. So we look into Al-Hasan's saying and find that it has no firm basis, so it is dismissed. It is also not known whether ijmā' was reached on the amount or not. There remains a possibility that some scholars said there is no blood money for a dhimmī (and another dhimmī on intentional killing) at all, and perhaps some scholars said it is even less than what Al-Hasan mentioned. So, this view is also dismissed. And we find that Allah said, "And judge between them by what Allah has revealed" [5:49]. So it is established that the blood money for a $dhimm\bar{\imath}$ from another $dhimm\bar{\imath}$ for intentional killing is the same as the blood money for a Muslim from another Muslim. We are not, in doing this, equating them with Muslims—far be it from Allah that we do so. Instead, we judge between them by the same ruling as between Muslims, as Allāh, Exalted is He, ordered. We and they kill a *dhimmī* for killing another *dhimmī*, just as we kill him for killing a Muslim. This is not an equation of a Muslim with a criminal, and by Allah, He is sufficient for us.

Chapter Twenty-Four: The Condemnation of *Ikhtilāf*

A group of people said, "Ikhtilāf is permissible in certain matters."

The answer: This is false and $lkhtil\bar{a}f$ is never permissible, it is prohibited, as we will clarify after this.

The obligation is only following what has come in the Qurʿān from Allāh and what is authentic from the Prophet, whom Allah has ordered to clarify the religion. Allah, the Exalted, says, "That you may explain to people what has been revealed to them, and that they may reflect" [16:44], and there is nothing more than that.

Allah also says, "This day I have completed for you your religion and completed My favor upon you" [5:3].

So whatever is authentically established in the two texts (Qur' \bar{a} n and Sunnah), is the truth. The $ijm\bar{a}$ of the people on earth does not increase its validity, nor does the abandonment by some people diminish it.

So it is evident that *ikhtilāf* must not be considered at all. Some people are mistaken by saying that *ikhtilāf* is a mercy and have used the narration attributed to the Prophet , "My companions are like the stars; whichever of them you follow, you will be rightly guided." 353

This is one of the most corrupt statements one could make, because if disagreement would be a mercy, then agreement would be misguidance, as Allāh said, "They will not cease to have *ikhtilāf* except those shown mercy by your Lord" [11:118-119].

And no Muslim says such a thing because there is either agreement or disagreement, and there is either mercy or indignation.

As for the narration they mentioned, it is false and fabricated, invented by people of wickedness, for several necessary reasons. First, it has not authentic through any *tarīq*, all *turuq* of that narration does not cease from

³⁵³ Al-Ibānah by Ibn Baṭṭah 701, 2/563-564 | Jāmiʿ Bayān Al-ʿIlm 1760, 2/925



Ḥamzah Ibn Abī Ḥamzah Al-Nāṣibī, Al-Ḥārith ibn Ghuṣayn, Sallām Ibn Sulaymān, ʿAbd Al-Raḥīm ibn Zayd Al-ʿĀmi, Zayd Al-ʿĀmi and all of them are weak.

Second, it is impossible for the Prophet ** to order something he had prohibited. Indeed, he ** informed us that Abū Bakr was mistaken in a ta wīl he made, and that 'Umar was wrong in a ta wīl during the hijrah, and that Usayd Ibn Ḥudayr was wrong in his ta wīl about a man whose sword turned against him in battle, and that Abū Al-Sanābil was wrong in a fatwā he gave concerning the waiting period ('iddah). We have mentioned such narrations before. And we have clarified this matter in detail in the chapter on falsehood and prohibition of taqlīd in this book which encompasses everything, making it unnecessary to repeat it here.

What we have mentioned is sufficient, for it is impossible and absurd—something absolutely impermissible—that the Prophet would order us to follow something that he himself declared to be a mistake. That would imply he was ordering a mistake, and Allah is far above that, and the Prophet is free from such an attribute. He informed us that they (the Companions) make mistakes, so it cannot be that he orders us to follow those who are mistaken.

Except if in the narration he intended for us to accept what they narrated from him #, then this is correct in that narration, for all of them, may Allah be pleased with them, are trustworthy. So, whoever accepts that from any one of them has been rightly guided, there is no other possibility.

The third point is that the Prophet does not speak falsehood; rather, his words are the truth. The comparison made by those who liken those who are correct in their judgments to stars as in that narration is a false and obvious lie. For if someone seeks the direction of the rising of the star al-Jadī (Polaris) and instead goes toward the rising of Saraṭān (Cancer), he will not be rightly guided but will be in great mistake, having made a serious mistake and incurred a clear loss. Not all stars guide people on every path, so the similarity is false making it evident that the narration is false, baseless in a necessary and it is very evident.

Allah, the Exalted, has condemned $ikhtil\bar{a}f$ in many places in His Book.

Allah, Almighty, says, "And indeed, those who differed over the Book are in extreme dissension" [2:176].

And He says, "Mankind was [of] one religion [before their deviation]; then Allah sent the prophets as bringers of good tidings and warners and sent down with them the Scripture in truth to judge between the people concerning that in which they differed. And none differed over it except those who were given it—after the clear proofs came to them—out of jealous animosity among themselves. And Allah guided those who believed to the truth concerning that over which they had differed, by His permission. And Allah guides whom He wills to a straight path" [2:213].

And He, the Exalted, made agreement an obligation and ordered the rejection of *ikhtilāf*, saying, "O you who have believed, fear Allah as He should be feared and do not die except as Muslims. And hold firmly to the rope of Allah all together and do not become divided. Thus does Allah make clear to you His verses that you may be guided" [3:102–103].

And He, the Exalted, said, "And do not be like those who became divided and differed after the clear proofs had come to them. And those will have a great punishment" [3:105].

So it is established that there is no guidance in religion except through the clarification of Allah's verses, and that division in religion is prohibited, not allowed.

Allah, the Exalted, said, "And do not dispute, for then you would lose courage and your strength would depart" [8:46].

Allāh said, "To establish the religion and not to be divided therein" [42:13]

And Allah the Exalted said, "And indeed, this is My path, which is straight, so follow it; and do not follow [other] paths, for they will separate you from His path. This He has instructed you that you may become righteous" [6:153).

And Allah the Exalted said, "Indeed, those who have divided their religion and become sects — you, [O Muḥammad], are not [associated] with them in anything" [6:159).

And Allah the Exalted said, "If it had been from [any] other than Allah, they would have found within it much contradiction" [4:82]

And Allah says: "And those who differ therein are full of doubts. They have no (certain) knowledge, they follow nothing but conjecture" [4:157].



And Allah says: "But no, by your Lord, they will not [truly] believe until they make you, [O prophet], judge concerning that over which they dispute among themselves and then find within themselves no discomfort from what you have judged and submit in [full, willing] submission" [4:65].

And Allah says: "[We sent] messengers as bringers of good tidings and warners so that mankind will have no argument (Hujjah) against Allah after the messengers" [4:165].

Allah says: "What is there after the truth, except misguidance" [10:32].

And Allah says: "Do not be like those who differed and divided" [3:105].

And Allah says: "And do not dispute with one another" [8:46].

And Allah says: "Mankind were one community and Allah sent Prophets with glad tidings and warnings, and with them He sent down the Scripture in truth to judge between people in matters wherein they differed. And only those to whom (the Scripture) was given differed concerning it after clear proofs had come unto them through hatred, one to another. Then Allah by His Leave guided those who believed to the truth of that wherein they differed. And Allah guides whom He wills to the Straight Path" [2:213]

And Allah says: "Truly, the religion with Allah is Islām. Those who were given the Scripture did not differ except, out of mutual jealousy, after knowledge had come to them. And whoever disbelieves in the Ayat of Allah, then surely, Allah is Swift in calling to account" [3:19]

And Allah says: "And We have not revealed to you the Book, except for you to make clear to them that wherein they have differed" [16:64]

And Allah says: "And We gave them clear proofs of the matter [of religion]. And they did not differ except after knowledge had come to them out of jealous animosity between themselves. Indeed, your Lord will judge between them on the Day of Resurrection concerning that over which they used to differ" [45:17].

And Allah says: "And indeed We settled the Children of Israel in an honourable dwelling place, and provided them with good things, and they differed not until the knowledge came to them. Verily, Allah will judge between them on the Day of Resurrection in that in which they used to differ" [10:93].

And Allah says: "If Allah had willed, succeeding generations would not have fought against each other, after clear Verses of Allah had come to them, but they differed - some of them believed and others disbelieved. If Allah had willed, they would not have fought against one another, but Allah does what He likes" [2:253].

And Allah says: "And if your Lord had so willed, He could surely have made mankind one nation but they will not cease to differ except those whom Allah has given mercy" [11:118-119].

And Allah says: "If you differ in anything amongst yourselves, then refer it to Allah and His Messenger" [4:59].

'Abdullah Ibn 'Amr narrated, "One day I hastened to the Messenger of Allah and I heard the voices of two men who were disputing over a verse. The Messenger of Allah, came out to us, and his face showed signs of anger, and he said: 'Those before you were only destroyed due to their disagreements over the Book.'"³⁵⁴

'Abdullah Ibn Mas'ūd narrated, "I heard a man recite a verse, which I heard differently from the Messenger of Allah, so I took the man's hand and brought him to the Messenger of Allah . He said: 'Both of you are doing well." Shu'bah said, "I think he said: "Do not have *ikhtilāf*, for those before you differed and were destroyed." 155

And Ibn Mas'ūd narrated, "The Prophet said, "Do not have ikhtilāf." 356

The Prophet said: "Leave me as long as I leave you. Indeed, those before you perished due to their excessive questioning and their disagreements with their prophets." 357

The Prophet said, "Recite the Qur'ān as long as your hearts are united upon it. When you have *ikhtilāf*, then stand (abandon the doubt)."³⁵⁸

The Messenger of Allah said, "Indeed, Allah the Exalted is pleased for you with three things and dislikes for you three things. He is pleased for you to worship Him and not associate anything with Him, and to hold fast to

³⁵⁴ Ṣaḥīḥ Muslim 2666 | Sunan Al-Kubrā by Al-Nasāʿī 8095

³⁵⁵ Ṣaḥīḥ Al-Bukhārī 2410, 2476, 5062

³⁵⁶ Musnad Ahmad 3724

³⁵⁷ Sahīh Muslim 1337

³⁵⁸ Ṣaḥīḥ Al-Bukhārī 5061, 7365 | Ṣaḥīḥ Muslim 2667



the rope of Allah altogether and not to be divided. And He dislikes for you 'he said, she said' (idle talk), excessive questioning, and wasting wealth."³⁵⁹

In even some of what we have mentioned is sufficiency, for Allah the Exalted has stated clearly that disagreement is dissension and that it is transgression, and He has forbidden dispute and division in religion, and He has threatened punishment for *ikhtilāf* with severe torment and with the removal of strength, and He has informed that disagreement is a deviation from the path of Allah. And whoever deviates from the path of Allah has indeed fallen into the path of Satan. Allah Almighty said, "Indeed, the right path has become clear from the wrong" [2:256].

And Allah the Exalted has made it clear that *ikhtilāf* is not from Him, and the meaning of that is that He did not approve of it. Instead He only willed it as a matter of its existence, just as He willed the existence of *kufr* and other sins.

If someone were to say, "The Companions themselves disagreed, and the best of people—do they fall under this condemnation?"

It is said to him, by Allah's grace: No, those people are not affected by this at all, because each one of them sought the path of Allah and the direction of truth. The one who made a mistake among them is rewarded with one reward for his beautiful intention in seeking the good. The sin has been lifted from them in their mistake because they did not intend it, nor did they seek it, nor did they belittle seeking the truth and the correct one is rewarded twice. And so is every Muslim until the Day of Resurrection in matters of religion that are hidden from him and have not reached him.

Instead, the blame mentioned and the described warning apply to the one who abandons holding onto the rope of Allah, which is the Qurʿān and the words of the Prophet , after the text has reached him and the proof has been established against him, and clings unto so-and-so, deliberately making taqlīd of others in disagreement, calling towards 'aṣabiyyah and the zealotry of jāhiliyyah, intending division, and striving in his claim to reject the Qurʿān and the Sunnah. These are the blamed for their ikhtilāf, and there is another group part of them, they are a people whose faith is weak and whose piety is minimal—who seek what aligns with their desires in the words of every speaker. They take whatever is lenient from the sayings of every scholar,

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³⁵⁹ Şaḥīḥ Muslim 1715

blindly making *taqlīd* of them without seeking what the text from Allah the Exalted and His Messenger sobligates.

If someone says, "Since the existence of *ikhtilāf* is inevitable, how can one avoid this condemnation against *ikhtilāf* mentioned in the texts?"

It is said to him, by Allah's grace: Allah the Exalted has taught us the way in this matter and has not left us in confusion, and praise be to Him.

He said, "And, indeed, this is My path, which is straight, so follow it, and do not follow other paths, for they will separate you from His path. This He has instructed you, that you may become righteous" [6:153].

And He also said, "And hold firmly to the rope of Allah all together and do not become divided" [3:103].

And He said, "And if you disagree over anything, refer it to Allah and the Messenger" [4:59].

So, when differences arise, follow the words of Allah the Exalted and the words of His Prophet # which clarify what Allah the Exalted has ordered us, and what all Muslims have agreed upon. This is the path of Allah the Exalted and His rope, which, if you hold onto, will save you from the blameworthy ikhtilāf and the blamed disagreement, if you believe in Allah and the Last Day, as Allah the Exalted has said. And this is what all the people of Islām, past and present, have unanimously agreed upon. There has never been a Muslim except whose belief and statement is, "Verily the words of Allah the Exalted and the words of His Messenger must be accepted, and it is not permissible for anyone to oppose or contradict them." Then the remaining sayings remain, which are taken from taglīd of so-and-so, from qiyās, and from istihsān and others, they are the blameworthy disagreements that are not permissible to be followed for anyone. Whoever abandons them has indeed abandoned ikhtilāf. All those who hold such sayings are ordered to abandon them and return to the rope of Allah the Exalted and His path. If they abandon them, they abandon disagreement and division and return to the obligatory agreement. This is why we say that the judgment of any judge that judges by other than the *nass* must be annulled, whether groups of scholars agree with it or not. Allah the Exalted said, "They will not cease to differ, except those upon whom your Lord has mercy" [11:118-119]. Allāh excluded those whom he has mercy on from those who have ikhtilāf and took out those whom he has mercy on from those who have ikhtilāf whom are threatened by Him.



And whoever thinks that the meaning of His saying, "Except those upon whom your Lord has mercy, and for that He created them" [11:119], is that He created them for mercy and thereby permitted *ikhtilāf* is in deep corruption, for two decisive reasons.

The first is that Allah the Exalted excluded those whom He has mercy upon from among the differing ones, and if He had created those who differ for mercy, He would have excluded those whom He has mercy on from themselves, removing them from among their own group. This is false, and it is impossible in language, making no sense.

The second certain decisive evidence is that those who differ exist, and every existing thing is in a particular state. There is no doubt for any Muslim that Allah the Exalted created them to be in that state. So, it is certain and undoubtedly affirmed that He created them to be in the disagreement they are in, as witnessed and nothing else.

Unless someone says that the pronoun in "He created them," [11:119] that 'them' refers to the ones upon whom mercy is shown, in which case the meaning would be that those whom He has mercy on are excluded from among the differing ones, and that those who hold fast to the rope of Allah the Exalted were created for mercy. This is correct and beyond doubt. The condemnation of $ikhtil\bar{a}f$ and its exclusion from mercy remain as it is accordingly.

Among those who held this view from the righteous predecessors were 'Umar Ibn 'Abd al-'Azīz and Mālik Ibn Anas and Al-Ḥasan. Al-Mas'ūdī narrated, "I heard 'Umar Ibn 'Abd al-'Azīz recite this verse 'But they will not cease to differ, except those upon whom your Lord has mercy, and for that He created them.' [11:118-119]. Then 'Umar Ibn 'Abd al-'Azīz said, 'He created the people of His mercy not to differ.'"³⁶⁰

Khālid Al-Ḥadhdhā' narrated, "I said to Al-Ḥasan regarding His saying: 'And they will not cease to differ, except those upon whom your Lord has mercy, and for that He created them' [11:118-119]. Al-Ḥasan said, 'He created the people of His mercy for Paradise so that they would not differ, and He created the people of disagreement for His Fire.'"³⁶¹

³⁶⁰ Tafsīr Ibn Wahb 65, 1/31 | Tafsīr Ibn Abī Hātim 11296

³⁶¹ Tafsīr Ibn Abī Hātim 11297

Ibn Wahb narrated, "I heard Mālik say about that verse, 'Those whom Allāh has mercy upon do not differ.'"³⁶²

And this view is also narrated from Ibn 'Abbās and Mujāhid³⁶³.

The meaning of our statement that $ikhtil\bar{a}f$ in religion whether in ' $aq\bar{\imath}dah$ or fiqh is not permissible is only that obedience to the order of Allah the Exalted and His Messenger acannot be opposed at all. There is no contradiction in what has come from Allah the Exalted through the tongue of His Messenger. Rather, it is either general (muhkam), specific $(kh\bar{a}s)$ as specified from the general or $n\bar{a}sikh$ and $mans\bar{u}kh$. And since there is no truth except in what has come from Allah through the tongue of the Messenger of Allah, opposing the truth is not permissible. This is a matter of which the correctness is clear to everyone, just as the clearness that three is more than two. And with Allah the Exalted is success.

³⁶² Sunan Saʿīd Ibn Manṣūr 1105

³⁶³ Tafsīr Ibn Abī Ḥātim 11294, 11292



Chapter Twenty-Five: The Truth Is Only In One And All Other Sayings Are False

A group went to the view that every single mujtahid is correct and that every $muft\bar{t}$ is right in his $fatw\bar{a}$, even when they contradict each other. They use as evidence what was narrated from 'Uthmān which we mentioned before, when he was asked about marrying two sisters by right hand possession, 'Uthmān said, "One verse has permitted them and one verse has prohibited them."

There is no *hujjah* in this for them for many reasons.

The first is that the statement of 'Uthmān, and the statement of anyone other than the Prophet $\stackrel{\text{def}}{=}$, is not obligatory to accept them except if it is from the Qur'ān, Sunnah, or $ijm\bar{a}$ '. And in that case only Qur'ān, Sunnah, or $ijm\bar{a}$ ' is taken and nothing else.

The second reason is that all the certain decisive evidences which will come, by Allah's will, to indicate that the truth is only in one, invalidates their corrupt $ta'w\bar{t}l$. Those are many and numerous certain decisive evidences.

The third reason is that 'Uthmān did not intend what they claim, which is that something can be both prohibited and permissible simultaneously for one person at one time. This is the utmost impossibility. Instead, he meant that he did not find a ruling that was clear to him because he saw Allah's statement, "Except for their wives or what their right hands possess, for they are not to be blamed" [23:6], and he saw Allah's statement, "Forbidden to you are... that you take two sisters simultaneously" [4:23]. It was not clear to him which of the two verses should prevail, so he told about the apparent of one verse that it can allow it, being excluded from the other verse and that the apparent of the second according to him could prohibited it specified from the other, so he stopped at that.

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³⁶⁴ Sunan Saʿīd Ibn Manṣūr 1735, 1/445

And they use as evidence the narration of the Prophet # "If the $h\bar{a}kim$ does $ijtih\bar{a}d$ and is mistaken then for him is one reward."

This is from the arguments of those who do not understand, and it is not permissible for them to speak on matters of 'Ilm. For the naṣṣ of the narration states that the mujtahid can be mistaken, so then he is mistaken, this is our statement, not theirs, and he is not rewarded for his mistake. Mistakes are not permissible to be followed, but he is rewarded for his ijtihād which is something correct because he sought the truth even if he did not say the truth. The saying of the person with his $ra \tilde{i}$ is not $ijtih\bar{a}d$, and his mistake is not rewarded, only his intention to seek the truth, but he is absolved of sin, as Allah the Exalted said, "There is no blame upon you for what you have done unintentionally, but what your hearts intended" [33:5].

They also used as evidence for the correctness of all $ijtih\bar{a}d$ the different $qir\bar{a}$ $\bar{a}t$ and the permissibility of choice to do various things as a compensation in $kaff\bar{a}r\bar{a}t$, and that all of them are true despite them being different.

The answer: This is not a hujjah for them, for the different qirā ʿāt are not contradictory, and we do not deny the correctness in what is not contradictory or that what is ordered by Allāh the Exalted. We only deny that saying of the one that says about the saying, "The flesh of the beast of prey is permissible except for the one in necessity" and the saying "The flesh of the beast of prey is prohibited except for the one in necessity," that both of these are the truth at the same time, and that something can then be simultaneously prohibited and permissible, obligatory and prohibited, for one person at one time from one perspective. This is what we deny, reject and invalidate. Such is not possible for anyone with even a shred of 'aql because it is the utmost impossibility that cannot be comprehended, let alone applied.

As for the different $qir\bar{a}$ ' $\bar{a}t$ mentioned, such as the basmalah, some $qurr\bar{a}$ ' include it at the beginning of the Sūrahs while others omit it, this is all permissible. For one who omits it, it is permissible for him, and for one who recites it, it is permissible for him, because all of these are the truth and revelation from Allāh. Similarly, regarding the expiation for oaths, which are freeing a slave, feeding, and clothing, none of these are contradictory. Whichever one a person does, they have done what is permissible for them. Because these are the orders of Allāh and His Messenger. No one has said that if a person did the option they omitted, they would be in mistake. This is

different from what we reject because there can be many things that are permissible at the same time, but it is not possible as they say, for something to be both obligatory be abandoned and obligatory for it to be done for anyone at the same time. This clear difference is only unclear to a fool.

They also use as evidence by saying, "The Prophet ordered after the Battle of the Trench (Khandaq) that no one must pray the 'asr prayer except at Banū Qurayzah So some prayed 'asr when its time entered before reaching Banū Qurayzah, and this was not rejected from them by the Prophet And others delayed it until they prayed it in Banū Qurayzah at night. When this reached the Prophet he did not reprimand either group."

There is no *hujjah* in this for them because the mistake of the *mujtahid* is not reprimanded. The prayer of those who prayed was an act that had passed its time, so there was no reason to reprimand them. However, the correct action is without doubt with one of the two groups. If we had been with him, we would not have prayed 'asr except at Banū Qurayzah with him, even if it were halfway through the night. We have also clarified this narration in the chapter about orders in the Qur'ān and Sunnah, understanding them from their apparent meaning, obligation, and immediacy, in the last part of that chapter before the chapter on how commands are conveyed.

As for the narration narrated by Ibn Shihāb who said, "A man came to the Prophet and said, 'I had become impure and did not pray.' The Prophet said, 'You have done well.' Then another man came and said, 'I had become impure and performed *Tayammum* and prayed.' The Prophet said, 'You have done well.'"³⁶⁶

This case is similar to the first, as every mujtahid is excused and rewarded. The first questioner was unaware of the ruling on *Tayammum*, and in such a situation, the ruling is that he should not pray at all while in a state of impurity until he purifies himself. The second individual, however, was aware of the ruling on *Tayammum* and fulfilled his obligation as required. Their rulings were different, not the same, but both were correct in terms of the actions required of them based on their respective knowledge. We do not dispute this. What we reject is that something can be both true and false at the same time in the same instance. The course of action for each person aligns with the extent of their knowledge.

Şaijili al-Duklları 740

³⁶⁵ Şahīh al-Bukhārī 946

³⁶⁶ Al-Mujtabā by Al-Nasā'ī 1/172 | Al-Mukhtārah by Al-Magdisī, 124, 3/230

And they say, "If your opponent is in error, then declare them as sinners ($fuss\bar{a}q$) just like you declare the $Khaw\bar{a}rij$ as $fuss\bar{a}q$)."

The answer, with Allāh's guidance, is that we do not declare the *khawārij* or others as sinners. However, we say that if the *ḥujjah* established without any opposing evidence, or from an *āyah* with no conflicting evidence, or from an irrefutable and decisive evidence, and they persist in holding to a statement that contradicts the truth, or act inconsistently by using arguments in one situation that are not valid in another, and they remain steadfast in their false *fatwā* or 'aqīdah, then they are indeed sinners, all of that is the same.

Ibn 'Abbās stated that the killer will be in hellfire for eternity. So, whoever accuses others of being sinners for enforcing the consequences of such warnings, let them begin by accusing Ibn 'Abbās of the same. And whoever declares Ibn 'Abbās a sinner is, by Allāh, the true sinner. Ibn 'Abbās is the noble son of the noble, the virtuous son of the virtuous. May Allāh be pleased with them both.

And they also use as evidence the narration of the Prophet *, "My companions are like the stars."

We have already invalidated this narration and made clear that it is false in the chapter on the falsehood of $ikhtil\bar{a}f$ in this book, so there is no need to repeat it.

They also use as evidence the differing opinions of the Companions and how they did not invalidate each other's rulings nor prevented those that opposed them from giving different rulings.

There is no hujjah in this for them because some of them did blame each other's differences in $fatw\bar{a}$, just as they criticized other matters.

Ibn 'Abbās challenged those who disagreed with him at the Black Stone regarding 'awl in the rules of inheritance and the ruling of eternal hellfire for a murderer³⁶⁷.

And Ibn 'Abbās said, "Are you not afraid that Allāh might cause the earth to sink beneath you? I tell you that the Messenger of Allāh said, and you say, 'But Abū Bakr and 'Umar said."

And Ibn 'Abbās also said, "Do you know better or does Allāh?" He cited the verse: "If a man dies, leaving no child but [only] a sister, she will

³⁶⁷ Mā Rawāhu Al-Akābir by Al-Bāghandī 14, pg. 132 | Jāmi Bayān Al-ʿIlm 2/214 ³⁶⁸ Tārīkh Jurjān by Al-Sahmī 631, pg. 378



have half of what he left" [An-Nisā': 176]. Ibn 'Abbās then said, "But then you say, 'She gets one third even if he has a child!" 369

And Ibn 'Umar, who ordered to perform *mut'ah* (*tamattu'*) during *ḥajj*, and it was said to him, "Your father had prohibited it," Ibn 'Umar answered, "Which is more important: to follow the words of Allāh or the words of 'Umar?"³⁷⁰

And 'Imrān Ibn Al-Ḥusayn, who said regarding 'Umar's prohibition *mut'ah* during *ḥajj*, "It was revealed in the Qur'ān, and we practiced it with the Prophet, the Qur'ān had not prohibited it nor did the Prophet, but a man spoke with his opinion about it, as he wished." but a

And Ibn al-Zubair said to Ibn 'Abbās about the *mut'ah nikāḥ* with women, "If you do it, I will stone you, so try it if you want." ³⁷²

And 'Umar, who annulled the sale of pregnant slave girls from their masters and returned them pregnant from concealment³⁷³.

And 'Umar annulled what $Ab\bar{u}$ Bakr did regarding enslaving the women of the apostates³⁷⁴.

'Umar also used to reprimand the people for praying two units after 'asr, while Ṭalḥā, Abū Ayyub, and 'Ā'ishah prayed them, and Abū Ayyub and Abū Ṭalḥā practiced it during 'Umar's life. When 'Umar died, they resumed it³⁷⁵.

And Abū Mūsā Al-Ashʿari's *fatwā* about the great-granddaughter, and sister, it was said that Ibn Masʿūd would agree with him on that. But Ibn Masʿūd said, "I have gone astray if so, and I am not among the rightly guided," ruling a false mistaken *fatwa as* misguidance and opposition to guidance³⁷⁶.

And there is much more like this which cannot be encompassed except in a very large book. So this invalidates their argument based on that. And Allāh is the source of strength.

Saiiii al-Dukiiaii +510

³⁶⁹ Al-Muşannaf by 'Abd ar-Razzāq 19023, 10/254-255 | Al-Muştadrak by Al-Ḥākim 3209, 2/339 | Sharh Ma ʿānī Al-Āthār 4/390

³⁷⁰ Sunan Al-Kubrā by Al-Bayhaqī 8875, 5/30

³⁷¹ Şaḥīḥ al-Bukhārī 4518

³⁷² Al-Jam' Bayna Al-Ṣaḥīḥayn 2293, 2/371

³⁷³ Al-Musannaf by Ibn Abī Shaybah 22956, 12/114

³⁷⁴ Al-Mufhim Limā Ashkala Min Talkhīs 1/186

³⁷⁵ Al-Muşannaf by 'Abd ar-Razzāq 4109 3/153

³⁷⁶ Sunan Al-Kubrā by Al-Bayhaqī 12310, 6/375

They also argued with the Prophet saying, "You dispute before me, and I am only a human being and you bring your disputes to me, some perhaps being more eloquent in their plea than others, so that I give judgment on their behalf according to what I hear from them. Therefore whatever I decide for anyone which by right belongs to his brother he must not take, for I am granting him only a portion of hell."377

There is no hujjah for them in this; it is evidence against them because the Prophet * ruled based on what was apparent from the bayyinah or the oath and informed the people that such rulings do not make the prohibited permissible or the permissible prohibited, nor do they alter anything from its rightful position.

If any judge's ruling were always the truth and everything opposing it were also the truth, then the Prophet's ruling would have ruled by that, and he told us the opposite of that. So this clearly indicates that the truth exists only in one view, and that anything contradicting it or differing from it is false.

The Prophet's ruling based on the apparent—that a property belongs to Zayd—does not mean that the property is truly Zayd's in reality. These are two different matters. The order to give a judgment on a specific situation, is not an order to know the reality. Since this is the case, one could be true while the other is false. Their argument, which is based on contradictory perspectives about the truth, is then invalid.

Indeed, the Prophet # has clarified that the truth remains the truth and that his judgment does not change its reality or grant the ruled object to someone other than its rightful owner.

If they tumult by saying, "Did the Prophet #rule by what was apparent, even though it was impermissible to take in reality? Was this ruling true or false? If you say it was false, then you have disbelieved, and if you say it was true, then that is our position," the answer is clear.

We say to them, and Allah is the source of strength: It is not permissible for a Muslim to believe that the Prophet # ruled falsely while knowing it was false. Anyone who permits this or believes in its permissibility is a *kāfir*, whose blood and wealth are permissible to be taken.

But the statement of truth is that the Prophet # never judged based on the testimony of witnesses and oaths except with a right which is certain

³⁷⁷ Sunan Abī Dāwūd 3583



decisive as ordered by Allāh and the order of Allāh to the person ruled in favor with, other than what the reality is in the $b\bar{a}tin$ is a right not to take it.

Then we say that it has been established with certainty that the Prophet " judges according to what is according to him, the truth, even though it may sometimes differ from what Allāh Almighty has ordered. This is not called falsehood, and whoever calls this falsehood is a $k\bar{a}fir$. An example of this is his " saying the $sal\bar{a}m$ after two or three rak ahs of prayer instead of four in the zuhr or 'asr prayer in Madīnah, or when the Prophet " turned away from the blind man, and the Qur'ān was revealed concerning these incidents in Sūrah 'Abasa. The Messenger of Allāh " only intended what was with him the truth, even though it was not so according to Allāh Almighty.

So it is established that the truth is one and must be followed. Whoever opposes it out of forgetfulness or thinking that it is the truth is not sinful but rewarded with one reward. However, whoever opposes it deliberately and knowingly is either a sinner when it is by action while acknowledged to be false when the <code>hujjah</code> is established or a disbeliever if refused with belief after the <code>hujjah</code> is established. With Allāh Almighty lies success.

They are also asked about two $faq\bar{\imath}hs$, one of whom considers the killing of a person permissible while the other considers it forbidden. One sees a person who abandons prayer as a disbeliever, while the other does not. One considers a sorcerer a disbeliever, while the other does not. If they claim that all these are the truth according to Allāh, they are insane, and make one person both a disbeliever in Hell eternally and a believer in Paradise eternally. This is the this is the utmost insanity.

This issue of this chapter is not the type in which we have been ordered to give something but also prohibited to take something; such issues are two different rulings regarding two different people, such as a rich man asking for charity and being given by a person. The giver is benevolent and rewarded, while the taker is sinful, disobedient, and eating forbidden wealth. Likewise, the one who ransoms a captive or gives a bribe to avert injustice—there are explicit texts of the Prophet *prohibiting* prohibiting* prohibiting*.

They also say, "What do you say about someone who prays four *rak'ahs* but doubts whether they prayed three or four? You instruct them to

³⁷⁸ Sahīh Muslim 1038

pray until they are certain they have completed four. So, you have ordered them to pray a fifth *rak'ah*, and thereby you have ordered them to commit an error."

The answer, with Allāh Almighty's success: We have never ordered them to pray a fifth. Rather, we order them to pray four, no more. The fifth unit that they added is certainly a mistake with Allāh, and they were never ordered to pray it while being in a state knowing it to be the fifth. Instead, they are ordered with that by certainty when they do not know if it was a fifth. There is no sin on them for that, and we do not deny that the sin is lifted. But what we do deny is claiming that what is lifted is the fact that it is a mistake in essence. If they had not prayed the fifth *rak'ah* while uncertain whether they had prayed four, they would have invalidated their prayer because they did not pray the *rak'ah* they were ordered to pray. This is like one abandoning the completion of their prayer before being certain of its completion. These are two different matters, and confusion arises for those who try to mix them.

Likewise, in the matter of *ijtihād* toward the *qiblah*, one is only ordered to face the Sacred Mosque and is not ordered to pray in any other direction. However, the sin is lifted if, by their *ijtihād*, they end up praying in the wrong direction, but they are not rewarded for this mistake. They are only rewarded for their intention of seeking the truth, not for the result of their striving, unless it leads them to the truth. In that case, they are rewarded twice: once for seeking and once for being correct.

We do not say that every *mujtahid* is ordered to act on the conclusion of their *ijtihād*. This is pure error. Instead we say every *mujtahid* is ordered to strive for the truth and to achieve it. *Ijtihād* is the act of the *mujtahid*, which is different from the end result. So we are ordered to seek the truth, not to act on what we find unless it is the truth itself. So mere *ijtihād* is all the truth, that is nothing other than seeking and desire for truth. Those who went wrong only went wrong because they mistakenly understood *ijtihād* to mean the act of the *mujtahid* on the concluded ruling where his *ijtihād* led to, so they fall into grave error.

Allāh says, "To obtain understanding (*tafaqquh*) in the religion" [At-Tawbah: 122]. So Allāh Almighty made *tafaqquh* obligatory, and that is seeking the reality of the obligations.



And the Prophet said, "Do not let the people lead you astray, either to the right or to the left." 379

There is in this the obligation to attain the truth. And there is in All $\bar{a}h$'s prohibition of speaking without knowledge the obligation to reach the truth.

The Prophet said, "When a <code>hakim</code> rues and does <code>ijtihad</code> and is correct, he will have two rewards; and if he rules and does <code>ijtihad</code> but is mistaken, he will have one reward."

Some have objected to the Prophet \cong 's statement in this narration, "When a $h\bar{a}kim$ does $ijtih\bar{a}d$ but is mistaken," claiming that it means he has bypassed the one who has the that owns the right.

This statement is an evidence against them, not for them, because it is either a mistake or correct. And if he has bypassed the one with the rightful claim, then he has fallen into mistake. Allāh Almighty never ordered the judge to be correct in owner of the right, for that would be a demand beyond his capacity. Instead, Allāh ordered him to rule based on the *bayyinah* of the upright, testimony, or oaths, confession, or his own knowledge. Then, if he rules based on these in the appropriate places, he has ruled with the certainty, the truth, whether or not the one with the rightful claim was reached by that or not, because in these he only does what he is obliged to do, not anything other than that.

If someone says, "Rather he bypassed the mistake not what is correct!"

It is said to him: This is an exit from the *ma'qūl*, because if he bypassed the mistake, then he would be correct, and if he is correct, who is it that is given one reward for being correct, and who is it that is given two rewards for being correct? This is mere *waswās* and a sign of weakness in faith, as well as evidence of corrupted belief.

And some said, "If the truth would be only in one, then whatever contradicts or is other than it would be misguidance."

We say: Yes, it is indeed misguidance. But not all misguidance is disbelief or sin, unless it is intentional. If it is unintentional, then the sin is lifted from it, just like other mistakes, and there is no difference.

And some said, "If the truth would be in one only, then Allāh would have explicitly stated it in a way that leaves no room for ta ' $w\bar{\imath}l$."

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³⁷⁹ Al-Muwattā' Mālik 692, 1506, 2/824 | Al-Mustadrak by Al-Hākim 4513, 3/98

The answer is that Allāh Almighty has indeed done so, and the verses we have recited in the chapter on the condemnation of *ikhtilāf* in our book—prior to this current chapter—are clear and explicit in stating that the truth is only in one and that all other sayings are false and erroneous. Allāh's orders to refer any dispute back to the Qurʿān and the Sunnah is a clear indication that the sayings that are from the text are the truth and are from Allāh Almighty, and anything else is false and not from Him. Allāh Almighty has informed us that *ikhtilāf* is not from Him, and it is then confirmed that whatever is not from Him is false. So it is established that the truth is only in one, and with Allāh Almighty lies success.

Some of them argued that a judge is ordered to execute a ruling based on the testimony of two just witnesses, even though they may testify to something false, so that then the judge is ordered to act upon what is false in reality.

This is a severe distortion. Yes, Allāh has ordered the judge to execute the testimony of the two witnesses, even if they had testified falsely. He prohibited rejecting their testimony if the judge does not know that they are not upright or merely mistaken, not just witnesses. However, since he does not know their true state, the sin is lifted from him in reality, and he is ordered to rule based on what is apparent. Judges of this chapter are not the same in ruling of the *mujtahid* that is wrong. Rather he has ruled with the certain decisive truth, only because Allāh ordered to rule by that, so he did his obligation and that is always the truth. If he were to reject their testimony, he would be disobedient to Allāh Almighty. This is akin to what we are commanded regarding the ransoming of a captive; ransoming them with money is an obligation upon us, yet it is forbidden for the enemy to take that money.

The Messenger of Allāh sexplained this when he said, "Whoever I have ruled in their favor for something that belongs to their brother must not take it, for I have only cut out for them a portion of the fire."

The Prophet ** prohibited anyone who knows the truth from carrying out a ruling that contradicts what they know to be true. (If the judge has additional knowledge beyond testimonies and acknowledgment then he must use that).



I asked some of them: What do you say about a man who meets an *ajnabiyyah* woman and mistakes her for his wife and has intercourse with her? Is he correct and justified or mistaken?

One of them replied to me, "Allāh has never forbidden her to him, given that he was ignorant of the fact that she was an *ajnabiyyah* woman.

I said to him: You have committed a grave mistake by saying that Allāh Almighty did not forbid the *ajnabiyyah* woman to him even though the prohibition has reached him. You have violated *ijmā* and the text by lying about Allāh's statement, "Except from their wives or what their right hands possess, for indeed, they are not to be blamed. But whoever seeks beyond that, then those are the transgressors" [23:6-7].

This woman is neither his wife nor someone his right hand possesses, so he is a transgressor, in mistake, engaging in forbidden intercourse. However, the sin is lifted from him due to his ignorance alone. And also, if she were not prohibited to him, she would, without doubt, be permissible to him, since there is nothing in the world except allowed or forbidden.

Ibn 'Abbās said, "Muḥammad was only sent to declare things permissible and prohibited." He said this to a person who claimed that the Prophet said regarding the lizard, "I do not make it permissible nor prohibited." So Ibn 'Abbās responded with the statement we just mentioned³⁸⁰.

Some have argued that Abū Bakr appointed Zayd Ibn Thābit as a judge, even though Zayd differed with him on many judicial rulings.

This is no *ḥujjah* for them, because we do not make *taqlīd* of Abū Bakr or anyone else. Moreover, they themselves disagree with Abū Bakr in many cases without evidence, so they cannot reject us for differing with him when there is evidence contrary to his saying.

Some of them said, "If Allāh had obligated us to attain the truth and reach the correct judgment, He would have burdened us with what we cannot bear."

This is a weak deception, and the one who says this is lying about what we mentioned. Allāh Almighty has not obligated us with anything beyond our capacity, for many people have indeed attained the truth and found it in a sound, certain manner, knowing with certainty that they were

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³⁸⁰ Şaḥīḥ Muslim 1948 | Musnad Aḥmad 1/294-326 | Al-Muṣannaf by Ibn Abī Shaybah 24348, 5/124

correct. What is possible for some of us is possible for all of us, and our success is only through Allāh Almighty.

Some said, "If people were obligated to reach the absolute truth, then those who failed to do so would be obliged to redo everything they had done that was false."

As for matters of rulings that are tied to specific time frames with a specified beginning and end, there is no obligation for someone who missed it entirely to redo it unless there is a text ordering its repetition. This is because it is impossible to bring back the time for that ruling, and we are only ordered to perform it within that time. So there is no way to fulfill it, as the time for its fulfillment has passed, such as with prayer, fasting, and similar acts. Neither the ignorant nor the intentional sinner nor the *muta'awwil* is obliged to make up any of that. Except for the prayer, the forgetful and the one who sleeps through prayer are obliged to make up the prayer, and except the obligatory fasts of Ramaḍān, the sick, the traveler, and the one who deliberately vomits during fasting are obliged to make up the fasts.

As for obligations tied to a time with a specified beginning but without a specified ending time, or those not tied to a specific time at all, they must always be performed or made up, without exception. For example, a person who was unaware of the obligation of zakāh on wheat and remained for many years as a Muslim, owning an amount of wheat on which zakāh is due, but later learned of the obligation, must pay zakāh for the past years. Or a person who did not know that a salam (advance payment) contract is not permitted in items that are not measured or weighed, and engaged in such contracts for many years involving animals or other unmeasured items. Upon learning of this, they must void all transactions and return what they took to the rightful owners, just as the ruling for someone who seized something wrongfully and later repented. There is no difference. Similarly, if someone concluded through ijtihād that there was no financial obligation (nafaqah) towards his deceased relative or a mahram kin, and lived like this for many years, then learned otherwise, the financial support for those past years becomes a debt he must repay. If he dies, it is taken from his estate. This applies to everything, and with Allāh Almighty lies success.

Some argued, "If a layperson ($\dot{a}mm\bar{i}$) is faced with differing opinions from scholars, they are free to choose from among them."



This is false, and we do not say this. We have explained this issue in the chapter on *taglīd* in this book, so there is no need to repeat it.

Some distorted the issue by claiming that a single object, like *maitah*, is permissible for one in dire need but prohibited for others.

This is a clear deception. We do not deny that the ruling for an object can vary between two different individuals or in different times. This is necessary for every object. For instance, Zayd's wealth is permissible for Zayd but prohibited for 'Amr, and eating during Shawwāl is permissible for mature, sane adults but prohibited for them in Ramaḍān and likewise for all obligations from the begin till the end.

Similarly, at one time, a person is obligated to pray when the prayer time begins, while at another time, it is prohibited for them to pray before the time begins. Likewise, Zayd's blood is prohibited to be shed at one time, but at another time, it is permitted.

What we only reject is that a *maitah* could be permissible for Zayd and prohibited for him at the same time. And that a sale can be complete and valid before parting from the place and at the same time incomplete and false before parting from the place. And that *qiṣāṣ* against the murderer can be obligatory and prohibited at the same time. There is a clear difference between these for anyone with a shred of understanding. This is the madness we reject, which no person of 'aql nor anyone without a mental imbalance declares correct. And it is something that no one can uphold because it leads to *waswās* thinking and to absurdity. And towards saying to Zayd, "If you perform this action, you are both rewarded for it and will be in Paradise, and at the same time, you are sinful and will be in Hellfire." This cannot happen — no one can be in both Hell and Paradise at the same time, nor can someone be both disobedient to Allāh and obedient with the same action at the same time. It is this *waswās* thinking that we reject, not other than that what the 'aql accepts.

Some argued, "If we were obligated to attain the truth, then Allāh would have provided a clear sign by which the one who attained the truth would know he had done so, and the one who missed it would know he had erred."

The answer to this is that the foundations of our *madhab* are exactly that. The *aṣl* of our *madhab* is that following the apparent meaning of the Qur ān and authentic *ḥadīth* is the truth, and we are certain that we are upon

the truth in this approach and in every saying derived from taking the apparent meaning of the Qur'ān and the authentic hadīth. We are certain that whoever opposes us is mistaken before Allāh, and we do not doubt this. And it is not possible to oppose it. But the truth may be hidden from us in some specific cases, like when two hadīths seem contradictory, and it is not known which is the abrogating and which is the abrogated. We do not deny that the truth can be hidden from us in some of these instances. While others may undoubtedly have known the truth in the cases where it was hidden from us, just as we have known the truth in matters that were hidden from them. Those who witnessed the Prophet # firsthand and received orders from him knew with certainty what remains unclear to us without doubt.

Some of them said, "A person may follow a certain madhab, defend it, fight for it, and believe it to be the truth, only to later switch to another madhab."

If someone who denies the existence truths (sophist) had said this, it would make more sense, but this statement itself is meaningless. For anyone who adheres to a madhab and then abandons it for another can only do so for one of three reasons, for which there is no fourth possibility:

Either they were following the truth, but then encountered a doubt that they did not thoroughly examine or analyze the decisive evidences, causing them to abandon the truth for falsehood, being mistaken.

Or, they were following a madhab for which no clear certain evidence had been established, and they believed in it based on a doubt without thoroughly investigating it through certain decisive evidences. Then they encountered another doubt, which led them to move from one falsehood to another.

Or they may have left their previous belief because they found a valid certain decisive evidence, moving from falsehood to truth.

In any case, such a person is or was necessarily confused and undoubtedly mistaken, either because they failed to seek out sound reasoning or because they neglected to analyze it carefully. This error is inevitable, whether it occurred in their first belief, which they abandoned, or in their second belief, to which they transitioned, or in both.

We do not deny that people make mistakes. Rather, we affirm it. What we only reject is that the existence of conflicting truths or that someone can move from one un-abrogated truth to another contradictory truth. This is impossible and cannot happen.

We have clarified the valid forms of certain decisive evidence, which are such that nothing can be valid except by that, and the certain decisive evidence that can be nothing except correct. And we clarified what people mistakenly consider to be certain decisive evidence, but which is not. This is all outlined in our book entitled Al-Taqrīb Lī Ḥudūd al-Manṭiq, a book of great benefit and immense utility for those seeking truth. Whoever desires clarity in understanding the sciences of truth should read it, then follow it by reading what we said on epistemology in our book Al-Faṣl. Then, they should read this book, and the truths will become clear to them without confusion, by Allāh's guidance and support.

So, since all their arguments have been invalidated, and all praise is for Allāh, we will now present further certain decisive evidence to invalidate their invalid sayings, and we seek refuge in Allāh.

Among these is that those who claim such only do so by agreement among themselves, in the absence of any text from the Qurʿān or authentic Sunnah, based on their disagreement regarding what must be accepted from the Sunnah. However, in cases where there is a text from the Qurʿān or the Sunnah, they do not permit anyone to exert *ijtihād* contrary to it. Instead, they consider anyone who opposes the text to be wrong.

If this is their saying, then we are spared, by Allāh's grace, from their burden, because there does not exist a new arising issue except that there is for it a clear existing text, and if that would not be the case then that ruling claimed is a new ruling in the religion that is not part of the religion itself. This is a contradiction.

And also they have confused the matter by using the term '*ijtihād*' saying that *ijtihād* is possible in some matters and not possible in others.

This is false, the truth is that if by $ijtih\bar{a}d$ they mean an individual's effort to seek the ruling of their religion from the sources where it can be found—and there are no sources of the religion except the Qur'ān and the Sunnah—then they are correct. This form of $ijtih\bar{a}d$ is obligatory upon everyone in every aspect of religion, and this is our position as well. But if they mean by $ijtih\bar{a}d$ that a person can give rulings based on their ra' \bar{i} , following what their zann lead them to, then this is false. It is not permissible at all in any aspect of the religion. Using the term $ijtih\bar{a}d$ for that is false in

both religion and language, and it distorts the meaning of words from their rightful places. We seek refuge in Allāh from this.

And what also invalidates their argument, although what we have mentioned must be sufficient, is that they claim that every person who does *ijtihād* is correct. And we say that they are mistaken in this claim before Allāh, without doubt, and they are upon falsehood in this matter. So, as they acknowledge that we are correct in our statement, they are admitting to the falsity of their own claim, because we are correct as they admit themselves in saying they are wrong. This alone is sufficient for anyone who understands.

They are also asked, "Has anyone who gives *fatwās* ever made a mistake, or not?"

If they say 'no' they are denying reality, because *hiss* bears witness that mistakes exist.

If they say 'yes' then they abandon their false claim that every person who does *ijtihād* is correct.

They are also asked about Allāh's prohibition on *ikhtilāf*: Is it a prohibition against truth or falsehood? If they say, "It is a prohibition against truth," they have disbelieved.

If they say, "It is a prohibition against falsehood," then they have abandoned their false method. Every verse we have recited in our book, in the chapter on condemning *ikhtilāf*, invalidates their false claim in this. And by the grace of Allāh, success is granted.

Among the statements supporting this are the words of Allāh the Exalted, "And if you disagree over anything, refer it to Allāh and the Messenger, if you believe in Allāh and the Last Day" [4:59].

So Allāh did not permit us to remain in any situation of disagreement and ordered us to refer it to the Qur'ān and Sunnah and to adhere to it. And also, the religion is not left to the desires of what those who wish to say, and whoever says such is a $k\bar{a}fir$. Instead, religion is referred back to the text and $ijm\bar{a}$. Whoever deviates from that is mistaken.

And also, Allāh the Exalted says, "Allāh does not burden a soul beyond its capacity" [Al-Baqarah: 286]. It is beyond a person's capacity to believe that something can be both <code>harām</code> and <code>halāl</code> at the same time for the same individual. Nor can the rulings of religion change from being <code>halāl</code> to <code>harām</code> because one <code>muftī</code> makes it <code>harām</code> and another <code>muftī</code> makes it <code>halāl</code>. Also, the <code>muftī</code> does not have the authority to make rulings, nor to declare



something *ḥalāl* or *ḥarām*. Instead, his obligation is only to convey Allāh's ruling on the new issue that arises. It is impossible for Allāh's ruling to be unstable—either He has declared something *ḥalāl* or *ḥarām*, or it is *wājib*.

And the saying of Allāh, "This day I have completed for you your religion" [5:3].

This makes it clear that the ruling has been established for every new occurring issue—either by prohibition, permissibility, or obligation.

Those who say make $hal\bar{a}l$ and make $har\bar{a}m$ based on the $ikhtil\bar{a}f$ of the $Fuqah\bar{a}$ have acknowledged that the $Fuqah\bar{a}$ are the ones who make the rulings, declare things $har\bar{a}m$, and $hal\bar{a}l$ and $w\bar{a}jib$. This is kufr from anyone who believes it. Allāh the Exalted says, "And do not say about what your tongues assert of untruth, 'This is permissible and this is forbidden'" [16:116].

This verse invalidates the claim that something can be both $hal\bar{a}l$ and $har\bar{a}m$ due to the $ikhtil\bar{a}f$ of the $Fuqah\bar{a}$ and informs us that whoever says this is a liar. What Allāh has declared prohibited is prohibited and not permissible, and what He has declared permissible is permissible and not prohibited. The same applies to what He has made obligatory.

The Prophet $\frac{1}{2}$ said, "The halal is clear, and the haral is clear, and between them are ambiguous matters that many people do not know." 381

If we were not obligated to ascertain the truth (obtain it), and if we would not be obliged anything except for mere $ijtih\bar{a}d$ (the mere intention and seeking of the truth without obtaining it) then every person would be an ' $\bar{a}lim$ about the ruling on these ambiguous matters. And would even be altering what is clearly $har\bar{a}m$ into $hal\bar{a}l$ and what is clearly $hal\bar{a}l$ into $har\bar{a}m$. This is disbelief and a denial of the Prophet \cong .

So by what we said it is established that anyone who does not know these ambiguous matters is ignorant of them, and whoever is ignorant of them has been mistaken and has not attained the truth regarding them.

It is also clear that anyone who declares the *ḥarām* that it is *ḥalāl* or the *ḥalāl* that it is *ḥarām* is certainly mistaken, with no doubt about it. By Allāh's grace, success is granted.

The one that says, "Everyone that does *ijtihād* is correct," is implied to declare correct someone who declares the *mut'awwilīn* as *kuffār*. And is also implied to declare correct the one that declares them only as sinning

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³⁸¹ Sahīh Muslim 1599

Muslims. And at the same time to declare correct the one that declares them as Muslims that are not sinners. So this implies that the same person is a $k\bar{a}fir$, Muslim, sinner, and a righteous upright person all at the same time. This is something that no one that is stoned with rocks says.

And this also implies that a person could be in both jannah for eternity and *jahannam* at the same time, because a *kāfir* is eternally in Hell, and a Muslim is eternally in jannah. So if someone is declared a disbeliever by one person and a believer by another, they would be in both Paradise and Hell at the same time. This is something only a person suffering from obsessive delusions would say.

And verily all of such had been said by the upright a 'immah of ahl ul-'Ilm, meaning them making takfīr of the people of innovations (ahl alahwā), and there are others from the companions and $t\bar{a}bi\bar{i}n$ not making takfīr of them and so on.

What suffices is that Allāh the Exalted has clearly stated that His path is one, while all other paths deviate from it.

The Prophet salso explicitly declared that a group of the companions were mistaken, as he declared false the case of Abū Bakr regarding his ta'wīl of a dream³⁸², and declared false 'Umar concerning his statement about the hijrah of the emigrants to Abyssinia, and Usayd ibn Hudayr regarding his statement that the *jihād* of 'Āmir ibn al-Akwa' was nullified. And the other fatwas in which they were mistaken, such as that of Abū Al-Sanābil concerning the pregnant widow, and many others like this. We mentioned dozens if not a hundred of them before And by Allāh's grace, success is granted.

Khālid Ibn Sa'īd narrated, "Abū Mas'ūd entered upon Ḥudhayfah and said, 'Advise me.' Hudhayfah said, 'Has not certainty come to you?' He said, 'Yes, indeed. Verily, the greatest misguidance is to recognize what you used to reject or to reject what you used to recognize. Beware of being inconsistent in Allāh's religion or in the order of All, for Allāh's religion is one.",383

Hudhayfah explained, and Abū Mas'ūd agreed with him, may Allāh be pleased with them. This is a clear statement of our position, and it is

³⁸² Sunan Abī Dāwūd 3268

³⁸³ Al-Muşannaf by 'Abd ar-Razzāq 20454, 11/249 | Al-Muşannaf by Ibn Abī Shavbah 34807, 7/140

impermissible to hold otherwise. This is what was established when the Prophet ## passed away, and by Allāh's grace, success is granted. He is sufficient for us, and He is the best disposer of affairs.

Chapter Twenty-Six: Deviation (*Shudhūdh*)

Deviation (*shudhūdh*) in the language in which we have been addressed means departing from the majority. This term in the *sharī'ah* has been unanimously agreed upon to have a specific meaning, but people have differed on what that meaning is.

One group said, "Deviation ($shudh\bar{u}dh$) is when one scholar departs from the remaining scholars." We have already clarified the falsehood of this position in the chapter on $ijm\bar{a}$ in this book, praise be to Allāh, Lord of the worlds. And also when an individual differs from the majority in favor of the truth, he is praiseworthy and commendable, while deviation is condemned by $ijm\bar{a}$. It is impossible for a person to be both praiseworthy and blameworthy for the same action at the same time. It is also impossible for one action to simultaneously warrant both praise and blame. This is a necessary evidence.

And also, indeed, all the Companions opposed Abū Bakr in the matter of the wars against *ahl al-riddah*, and they (all the companions) were all mistaken in their opposition to Abū Bakr alone, while Abū Bakr alone was correct. So the mentioned saying is invalid.

Another group said, "Deviation ($shudh\bar{u}dh$) is when scholars have $ijm\bar{a}$ on a matter, then one of them departs from the opinion they all agreed upon."

This is the view of Abū Sulaymān and the majority of our companions.

This meaning, if it would exist, is one type from the types of $shudh\bar{u}dh$ and not a limit for $shudh\bar{u}dh$ nor a description. The thing they mentioned—if it would exist—it is $shudh\bar{u}dh$ and kufr together as we have clarified in the chapters of $ijm\bar{a}$. And that whoever opposes $ijm\bar{a}$ while knowing it is $ijm\bar{a}$ has committed kufr.

While what we mentioned is impossible and contradictory, when did this $ijm\bar{a}$ 'arise where every single one of the 'ulamā' concur in one majlis in which one afterwards opposes them.

What we say, with Allāh's guidance, is that deviation $(shudh\bar{u}dh)$ is only opposing the truth. Anyone who opposes what is correct in any matter is, in that matter, deviant $(sh\bar{a}dh)$ —whether they are all mankind on the earth or some of them. And the $jam\bar{a}'ah$ and the jumlah as we clarified before are only those that are upon the truth, even if there is only one person among them, then he is the $jam\bar{a}'ah$ and the jumlah.

Abū Bakr and Khadījah (may Allāh be pleased with them) were the only Muslims at one point, and they were the *jamā'ah*, while the remaining people on earth, aside from the Prophet were in deviation (*shudhūdh*). This is what we say, there is no disagreement among the scholars on this point, and anyone who opposes it will eventually return to it and be forced to acknowledge it, willingly or unwillingly.

The truth is the foundation upon which the heavens and the earth were established. Allāh says: "We did not create the heavens and the earth and everything between them except in truth" [15:85]. Since the truth is the foundation, falsehood is a departure from it and a deviation (*shudhūdh*) from it. Since it is not possible for truth to be deviation. There is only truth or falsehood, and therefore, it is evident that deviation is only what is falsehood. This is a necessary and definitive division, and praise be to Allāh.

And those who claim, "Deviation is when one individual departs from the majority," they are asked: What do you say about two people differing from the majority?

If they say, "That is also deviation," then they are asked about three people differing, then we increase the number one by one indefinitely.

He must inevitably choose between two options: either he sets a specific number for what constitutes deviation, and that anything other than that number is not deviation—which is a false set limit for which there is no certain decisive evidence, making him in reality the deviant $(sh\bar{a}dh)$ as he claims falsehood—or he continues increasing the number until he steps beyond the $ma'q\bar{u}l$ and the $ijm\bar{a}'$ of the ummah, by that becoming truly deviant as well. There is no escaping this, and success comes from Allāh, the Exalted.

Anyone who is led by definitive evidence—whether from the naṣṣ or from certain $ijm\bar{a}$ —to a particular conclusion, even if no one before him has ever stated it, is obligated to declare what this evidence has led him to. Whoever opposes him has opposed the truth, and whoever opposes the truth

has disobeyed Allāh, the Exalted. Allāh says, "Say, 'Produce your proof, if you should be truthful" [2:111]. Allāh did not make it a condition that someone must have preceded him in that statement before he says it, and He, the Exalted, condemned those who made such a condition. As He says, narrating and rejecting the disbelievers who said, "We have never heard of this in the former religion; this is nothing but an invention" [38:7].

Whoever rejects this principle has effectively opposed all the tābi 'īn and all the $fugah\bar{a}$ who came after them. The matters that the Companions (may Allāh be pleased with them) addressed—whether in issues of 'aqīdah or fatwā—are limited, well-preserved, and known to reliable muḥaddithīn and their scholars. Every matter for which no statement was reported from a Companion but was instead narrated from a tābi i or those after them indicates that this $t\bar{a}bi$ \bar{i} explicitly expressed a saying on an issue that no one before him had stated. Similarly, for any matter in which no saying was preserved from either a Companion or a tābi 'ī, yet the fuqahā' after them discussed it, the faqīh in that case then speaks of a view that no one before him had held.

Anyone who delves into this field will find that Abū Ḥanīfah, Mālik, and Al-Shāfi'ī have more than ten thousand issues where no one before them had said what they said. So how can these ignorant people permit the tābi 'īn and those after them to say something that no one before them said, yet prohibit the same thing for those who come after them—up until the Day of Judgment? This is from the one saying such, a claim without certain decisive evidence, lying about the religion, and opposition to the $ijm\bar{a}$ ' that permits what we have mentioned.

The reality is as we have described: whoever wishes to verify this must carefully examine every issue narrated from the Companions, for they are the first of this ummah. Then, analyze every matter that deviates from those issues, and you will find that the one issuing the fatwa on it has expressed a view no one before him had held.

The difference between us and others is that we do not express a saying on any issue except if Allāh has spoken of it in the Qur'ān or His Messenger shas ruled on it through authentic narrations. This suffices as a source of reassurance and truth. As for those who oppose us, the majority of their own statements come from issues not previously addressed by anyone, and based purely on their ra \bar{i} . This, in itself, is enough falsehood.

All praise belongs to Allāh, Lord of the worlds, in abundance. May Allāh send blessings upon Muḥammad, the Seal of the Prophets Allāh is sufficient for us, and He is the best of protectors.

Chapter Twenty-Seven: Names Of The Companions From Whom *Fatwās* Were Narrated, And The Names Of The *Fuqahā* 'Mentioned In The Disputes After The Era Of The Companions

As for the Companions, may Allāh be pleased with them, they are everyone who sat with the Prophet , any moment, and heard from him even a word or more, or witnessed something from him that they comprehend, and were not among the hypocrites whose hypocrisy continued and became known until they died in that state, nor like those whom he exiled due to deserving it, such as Huyat the effeminate (*mukhannath*) and those like him.

So, whoever is as we described first, he is a Companion. And all of them are upright, righteous, virtuous leaders, and it is obligatory upon us to honor and respect them, seek forgiveness for them, and love them. A date given in charity by one of them is better than one of us giving everything we possess in charity, and a single session of one of them with the Prophet is better than a lifetime of worship for one of us. Whether the person we mentioned was an adult or not during his time, it is the same.

Al-Nu'mān ibn Bashīr, 'Abdullāh Ibn Al-Zubayr, and Al-Ḥasan and Al-Ḥasan, the sons of 'Alī, may Allāh be pleased with them all, were all under ten years of age when the Prophet ## died.

As for Al-Ḥusayn, he was six years old when the Messenger passed away, and Maḥmūd Ibn Al-Rabī was five years old when the Prophet died. While he was aware, the Prophet spat into his face from the well of their house a mouthful of water³⁸⁴.

And all of them are counted among the best of the Companions and are accepted with full acceptance in what they narrate from him , whether they are men, women, slaves, or free people.

³⁸⁴ Şaḥīḥ al-Bukhārī 189, 839, 1185, 6354, 6422

As for those who comprehended the Prophet *s *s with their 'aql and age, but did not meet him, they are not from the Companions but from the tābi 'īn, such as Abū 'Uthmān Al-Nahdī, Abū Rajā' Al-'Uṭaradī, Shurayḥ Ibn Al-Ḥārith the judge, 'Alqamah, Al-Aswad, Masrūq, Qays Ibn Abī Ḥāzim, al-Ruḥayl al-Ju'fī, Nabātah al-Ju'fī, 'Amr ibn Maymūn, Salmān ibn Rabī'ah al-Bāhilī, Zayd ibn Ṣūḥān, Abū Maryam al-Ḥanafī, Ka'b ibn Sūr, 'Amr ibn Yathribī, and others, and their numbers cannot be counted except by their Creator. And from them were those who gave fatwās during the days of 'Umar ibn al-Khaṭṭāb and judged between people during the times of 'Umar and 'Uthmān.

As for those who apostatized after the Prophet and after meeting him, but then returned to Islām and improved their state, like Al-Ash ath Ibn Qays and Amr Ibn Ma dikarb and others, their companionship is counted, and they are without a doubt among the Companions, due to the saying of the Messenger of Allāh, "You have accepted Islām for what good preceded you." 385

And all of them are upright, virtuous, and among the people of Paradise. Allāh Almighty said, "Muḥammad is the Messenger of Allāh, and those with him are stern against the disbelievers, merciful among themselves. You see them bowing and prostrating, seeking bounty from Allāh and His pleasure. Their mark is on their faces from the effect of prostration. That is their description in the Torah and their description in the Gospel, like a seed that sends forth its shoot, strengthens it, and it thickens and stands firmly on its stalk, delighting the sowers, so that through them He may enrage the disbelievers. Allāh has promised those who believe and do righteous deeds among them forgiveness and a great reward" [48:29].

And Allāh the Exalted said, "Not equal among you are those who spent before the conquest and fought [in the cause of Allāh]. They are greater in degree than those who spent afterwards and fought. But to all, Allāh has promised the best reward" [57:10].

And Allāh said, "Indeed, those for whom the best [reward] has preceded from Us - they are from it far removed. They will not hear its sound, while they are, in that which their souls desire, abiding eternally. They will not be grieved by the greatest terror, and the angels will meet them, [saying], 'This is your Day which you have been promised.'" [Al-Anbiyā': [101-103].

³⁸⁵ Sahīh al-Bukhārī 1436, 2220, 2538, 5992

These are the promises of Allāh, the Exalted, and Allāh's promise is guaranteed to be fulfilled. All of them are among those who died as believers, having believed and done righteous deeds.

The Messenger of Allāh said, "Leave my Companions for me, for if one of you were to have gold equal to the size of Uhud and spent it in the way of Allāh." 386

Some people have said, "One cannot be considered a Companion if they saw the Prophet souly once, but only if they repeatedly accompanied him."

This is certainly a mistake because it is a statement without certain decisive evidence. Then we ask the one who makes this claim: What is the limit of the 'repetition' they mention, and the duration of time they stipulate? If they set a limit for this, they are adding a false stipulation for which there is no certain decisive evidence, and if they find no limit for it, they are speaking without knowledge, and that alone is enough as misguidance.

Further certain decisive evidence of the falsehood of their claim is that the word 'companionship' (*suḥbah*) in the language applies to anyone who is with another person in a particular situation, for they have accompanied them in that moment. Therefore, when someone saw the Prophet and was neither opposing him nor denying his prophethood, they accompanied him in that time, and by that they must be called a Companion.

As for the $t\bar{a}bi'\bar{u}n$ and those after them, we only know their outward conditions, as there is no saying from Allāh the Exalted about the salvation of any of them. Not all of the $t\bar{a}bi'\bar{u}n$ or those after them are upright, so their conditions must be observed. Whoever displays virtue and knowledge, their transmission is accepted.

The Messenger of Allāh fought Hawāzin at Ḥunayn with twelve thousand fighters, all of whom fall under the term 'Companions.' Then he fought at Tabūk with even more than that, and delegations from all the tribes of Arabia came to him, and they all were Companions. Their number undoubtedly exceeds thirty thousand people.

And the delegations of the *jinn* came to him , and they embraced Islām, the title of companionship is confirmed for them. They took from him the Qur'ān and the rulings of Islām. Everyone we mentioned, who met the Prophet and took from him, whether they were human or jinn, there is no

³⁸⁶ Musnad Ahmad 13848

doubt that they issued $fatw\bar{a}s$ to their families, neighbors, and people. This is a matter known by necessity. Despite that, $fatw\bar{a}s$ regarding ' $ib\bar{a}dat$ and $ahk\bar{a}m$ have only been transmitted from one hundred and a few dozen of them—men and women—after a severe investigation. Then how can anyone with a trace of 'aql, a shred of faith, or a fraction of modesty claim $ijm\bar{a}$ ' among them on matters where it is not certain that all of them said or knew it? Especially when we are disputing with them only about the claim of $ijm\bar{a}$ ' in mistakes that are not from the words of Allāh in the Qur'ān and the authentic rulings from the Messenger of Allāh . This is truly astonishing. And what we have mentioned is definite certain evidence of the falsehood of those who claim $ijm\bar{a}$ ' on matters where the rulings of the Qur'ān and the Sunnah might be hidden, let alone on things that are not from the Qur'ān and the Sunnah or contradict it.

And now by the will of Allāh, we will mention the names of everyone from the companions who transmitted *fatwās*, from one issue or more, and those we missed out on were very few, that is if we missed any, and that is only those who transmitted one or two issues of *fatwās*. But by Allāh's grace, we shall mention them.

Those among the companions from whom numerous *fatwās* have been transmitted are: 'Ā'ishah, the Mother of the Believers, 'Umar ibn al-Khaṭṭāb, his son 'Abdullāh, 'Alī ibn Abī Ṭālib, 'Abdullāh ibn 'Abbās, 'Abdullāh ibn Mas'ūd, and Zayd ibn Thābit. From these seven alone it would be possible to compile a large volume from each one's *fatwās*. Abū Bakr Muḥammad ibn Mūsā ibn Ya'qūb, the son of the Commander of the Faithful, al-Ma'mūn, compiled the *fatwās* of 'Abdullāh ibn 'Abbās into twenty volumes³⁸⁷. The Abū Bakr whom we mentioned was one of the *imāms* of Islām in knowledge and *ḥadūth*.

Those from the companions from whom a moderate amount of fatwās have been transmitted are: Umm Salamah, the Mother of the Believers, Anas ibn Mālik, Abū Saʿīd al-Khudrī, Abū Huraira, ʿUthmān ibn ʿAffān, ʿAbdullāh ibn ʿAmr ibn al-ʿĀṣ, ʿAbdullāh ibn al-Zubair, Abū Mūsā al-Ashʿarī, Saʿd ibn Abī Waqqās, Salmān al-Fārisī, Jābir ibn ʿAbdullāh, Muʿādh Ibn Jabal. And Abū Bakr al-Ṣiddīq, making them only thirteen in total, from whom it is possible to compile only a very small portion of fatwās from each. Also added to them are Ṭalḥā, al-Zubair, ʿAbd al-Raḥmān ibn

³⁸⁷ Siyar A'lām Al-Nubalā' 5/233

Awf, 'Imrān ibn Husayn, Abū Bakrah, 'Ubādah ibn al-Sāmit, and Mu'āwiyah ibn Abī Sufyān.

The remaining of them issued very few fatwas, with each one only narrating one or two issues, with very little more than that. After thorough investigation and research, it is possible to compile only a very small portion with all of their fatwās combined. They are: Abū al-Dardā', Abū al-Yasar, Abū Salama al-Makhzūmī, Abū 'Ubaidah ibn al-Jarrāḥ, Sa'īd ibn Zayd, al-Ḥasan and al-Ḥusayn, the sons of 'Alī ibn Abī Ṭālib, al-Nu'mān ibn Bashīr, Abū Mas'ūd, Ubayy ibn Ka'b, Abū Ayyūb, Abū Talhā, Abū Dharr, Umm 'Atiyyah, Şafiyyah, Mother of the Believers, Ḥafṣa, Mother of the Believers, Umm Habība, Mother of the Believers, Usāmah ibn Zayd, Ja'far ibn Abī Ţālib, al-Barā' ibn 'Āzib, Qarazah ibn Ka'b, Abū 'Abdullāh al-Baṣrī, Nāfi', the maternal brother of Abū Bakra, al-Miqdād ibn al-Aswad, Abū al-Sanābil ibn Ba'kak, al-Jārūd al-'Abdī, Layla bint Qā'if, Abū Mahdhūrah, Abū Shurayh al-Ka'bi, Abū Barzah al-Aslamī, Asmā' bint Abī Bakr, Umm Shuraik, al-Hawlā bint Tuwayt, Usayd ibn al-Hudayr, al-Dahhāk ibn Qays, Habīb ibn Maslamah, 'Abdullāh ibn Unays, Hudhayfah ibn al-Yamān, Thumāmah ibn Uthāl, 'Ammār ibn Yāsir, 'Amr ibn al-'Āṣ, Abū al-Ghādiyah al-Juhanī al-Sulamī, Umm al-Dardā al-Kubrā, al-Daḥḥāk ibn Khalīfah al-Māzinī, al-Hakam ibn 'Amr al-Ghifārī, Wābisah ibn Ma'bad al-Asadī, 'Abdullāh ibn Ja'far, Awf ibn Mālik, 'Adī ibn Hātim, 'Abdullāh ibn Abī Awfa, 'Abdullāh ibn Salām, 'Amr ibn 'Abasah, 'Attāb ibn Usayd, 'Uthmān ibn Abī al-'Ās, and 'Abdullāh ibn Sarjis, 'Abdullāh ibn Rawāḥah, 'Aqīl ibn Abī Tālib, 'Ā'idh ibn 'Amr, Abū Qatādah, 'Abdullāh ibn Ma'mar al-'Adawī, 'Umayr ibn Sa'd, 'Abdullāh ibn Abī Bakr al-Şiddīq, 'Abd al-Raḥmān ibn Abī Bakr al-Ṣiddīq, 'Ātikah bint Zayd ibn 'Amrah, 'Abdullāh ibn 'Awf al-Zuhrī, Sa'd ibn Mu'ādh, Abū Munīb, Sa'd ibn 'Ubādah, Qays ibn Sa'd, 'Abd al-Raḥmān ibn Sahl, Samurah ibn Jundub, Sahl ibn Sa'd al-Sā'idī, Mu'āwiyah ibn Muqrin, Suwayd ibn Muqrin, Mu'āwiyah ibn al-Hakam, Sahlah bint Suhayl, Abū Ḥudhayfah ibn 'Utbah, Salamah ibn al-Akwa', Zayd ibn Arqam, Jarīr ibn 'Abdullāh al-Bajalī, Jābir ibn Samurah, Juwayriyyah, Mother of the Believers, Ḥasan ibn Thābit, Ḥabīb ibn 'Adī, Qudāmah ibn Maz 'ūn, 'Uthmān ibn Maz'ūn, Maymūnah, Mother of the Believers, Mālik ibn al-Huwayrith, Abū Umāmah al-Bāhilī, Muḥammad ibn Maslamah, Khabbāb ibn al-Aratt, Khālid ibn al-Walīd, Damrah ibn al-ʿĪṣ, Ṭāriq ibn Shihāb, Zuhayr ibn Rāfiʿ, Rāfi' ibn Khadīj, Fātimah, daughter of the Messenger of Allāh , Fātimah bint Qays, Hishām ibn Ḥakīm ibn Ḥizām, his father Ḥakam ibn Ḥizām, Shuraḥbīl ibn al-Simt, Umm Sulaym, Diḥyah ibn Khalīfah al-Kalbī, Thābit ibn Qays ibn al-Shammās, Thawbān, the freed slave of the Messenger of Allāh , Surraq, al-Mughīrah ibn Shuʿbah, Buraydah ibn al-Ḥuṣayb al-Aslamī, Ruwayfiʿ ibn Thābit, or Ḥumaydah or Usayd, Faḍālah ibn ʿUbayd, a man known as Abū Muḥammad, from whom we narrated the obligation of *Witr*; he was from the Anṣār, his name is Masʿūd ibn Aws, Najjārī, a Badrī, Zaynab bint Umm al-Muʿminīn Umm Salamah, ʿUtbah ibn Masʿūd, Bilāl the Muʿādhdhin, Mikraz, ʿArafah ibn al-Ḥārith, Sayyār ibn Rūḥ or Rūḥ ibn Sayyār, Abū Saʿīd ibn al-Muʿallā, al-ʿAbbās ibn ʿAbd al-Muṭṭalib, Busr ibn Abī Arṭaʿah and it is said his name was Busrah ibn Arṭaʿah), Ṣuhayb ibn Sinān, Umm Aymān, Umm Yūsuf, Māʿiz al-Ghāmidiyyah.

As for the $fuqah\bar{a}$ from the $T\bar{a}bi$ $\bar{i}n$ who issued $fatw\bar{a}s$ and those after them, we shall, by the will of Allāh, mention those who are known from the prominent lands during the early days of Islām specifically. As for after that, only Allāh can enumerate them.

In Makkah — May Allāh honor it: 'Aṭā' ibn Rabāḥ, the freed slave of Umm Kuraz al-Khuzā'iyyah; Ṭāwus ibn Kaysān al-Fārisī; al-Aswad, the father of 'Uthmān ibn al-Aswad; Mujāhid ibn Jabr; 'Ubayd ibn 'Umar al-Laythī; his son 'Abdullāh ibn 'Ubayd; 'Amrah ibn Dīnār; 'Abdullāh ibn Abī Mulaykah; 'Abdullāh ibn Sābit; 'Ikrimah, the freed slave of Ibn 'Abbās. These were the companions of Ibn 'Abbās, and they also took knowledge from Ibn 'Umar, Umm al-Mu'minīn 'Ā'ishah, 'Alī, and Jābir.

Then there were: Abū al-Zubayr al-Makkī and ʿAbdullāh ibn Khālid ibn Usayd ibn Abī al-ʿĪṣ ibn Umayyah; ʿAbdullāh ibn Ṭāwus. After them: ʿAbd al-Mālik ibn ʿAbd al-ʿAzīz ibn Jurayj; Sufyān ibn ʿUyaynah, most of whose *fatwās* were in the rites of pilgrimage, and he was cautious regarding divorce. After them came: Muslim ibn Khālid al-Zanjī; Saʿīd ibn Sālim al-Qaddāḥ, and after them Muḥammad ibn Idrīs al-Shāfiʿī, followed by his cousin Ibrāhīm ibn Muḥammad al-Shāfiʿī; Abū Bakr ʿAbdullāh ibn al-Zubayr al-Ḥumaydī; Abū al-Walīd Mūsā ibn Abī al-Jārūd; then Abū Bakr ibn Abī Masarrah. Then the followers of al-Shāfiʿī became dominant except for those whose names we cannot recall at the moment.

In Madīnah — May Allāh honor and protect it: Saʿīd ibn al-Musayyib al-Makhzūmī, who was married to the daughter of Abū Hurayrah. He took a great deal of knowledge from Abū Hurayrah, Saʿd ibn Abī Waqqās, and

others. There was also 'Urwah ibn al-Zubayr ibn al-'Awwām; al-Qāsim ibn Muḥammad ibn Abī Bakr al-Ṣiddīq, who took knowledge from Umm al-Mu'minīn 'Ā'ishah; 'Ubaydullah ibn 'Abdullāh ibn 'Utbah ibn Mas'ūd al-Hudhalī, who took from Ibn 'Abbās; Khārijah ibn Zayd ibn Thābit, who took from his father; Abū Bakr ibn 'Abd al-Raḥmān ibn al-Ḥārith ibn Hishām al-Makhzūmī; Sulaymān ibn Yasār, who took from Umm al-Mu'minīn 'Ā'ishah and Umm Salama, as well as from other companions.

These are the well-known seven *fuqahā* 'in Madīnah. There were also others among the people of *fatwā* in them, including Abān ibn 'Uthmān ibn 'Affān, who took from his father, and 'Abdullāh and Salim, the sons of 'Abdullāh ibn 'Umar, as well as Abū Salama ibn 'Abd al-Raḥmān ibn 'Awf, 'Alī ibn al-Ḥusayn ibn 'Alī ibn Abī Ṭālib, and his son Muḥammad, who took from Jābir. Also, Abū Bakr ibn Sulaymān, Abī Khaythama al-'Adawī, 'Adī Quraysh, and Nāfī', the freed slave of Ibn 'Umar, from whom we narrated about ten issues of *fatwās*. Also, 'Amrah bint 'Abd al-Raḥmān ibn Sa'd ibn Zurārah, the brother of Abū Umāmah As'ad ibn Zurārah. Sufyān mentioned that she used to give *fatwās* in matters of sales, and she took knowledge from 'Ā'ishah and the Anṣār women. And Marwān ibn al-Ḥakam (before he moved to Shām), who was below these figures, and after them came Abū Bakr ibn Muḥammad ibn 'Amr ibn Ḥazm and his two sons Muhammad and 'Abdullāh.

Also, 'Abdullāh ibn 'Amr ibn 'Uthmān ibn 'Affān and his son Muḥammad, 'Abdullāh and al-Ḥasan, the sons of Muḥammad ibn al-Ḥanafīyyah (Muḥammad ibn 'Alī ibn Abī Ṭālib), Ja'far ibn Muḥammad ibn 'Alī ibn al-Ḥusayn ibn 'Alī ibn Abī Ṭālib, 'Abd al-Raḥmān ibn al-Qāsim ibn Muḥammad ibn Abī Bakr al-Ṣiddīq, Muṣ'ab ibn Muḥammad ibn Shuraḥbīl al-'Abdarī, Muḥammad ibn al-Munkadir al-Taymī, Muḥammad ibn Muslim ibn Shihāb al-Zuhrī (whose fatwās were compiled by Muḥammad ibn Aḥmad ibn Mufarrij in three large volumes in accordance to the chapters of fiqh), 'Abdullāh ibn al-Ḥasan ibn al-Ḥusayn ibn 'Alī ibn Abī Ṭālib, Yaḥyā ibn Sa'īd ibn Qays al-Anṣārī, Abū al-Zinād 'Abdullāh ibn Yazīd ibn Hurmuz, 'Umar ibn Ḥusayn, Sa'd ibn Ibrāhīm ibn 'Abd al-Raḥmān ibn 'Awf, Rabī'ah ibn Abī 'Abd al-Raḥmān (the freed slave of the Banū Tamīn of Quraysh, known as Rabī'ah al-Ra'ī), al-'Abbās ibn 'Abdullāh ibn Ma'bad ibn al-'Abbās ibn 'Abd al-Muṭṭalib, 'Abd al-Raḥmān ibn Ḥarmalah al-Aslamī, Zayd



ibn Aslam, 'Uthmān ibn 'Urwah ibn al-Zubayr, Ṣafwān ibn Sulaym, Ismā'īl ibn Umayyah ibn 'Amr ibn Sa'īd ibn al-'Āṣ al-Umawī.

Then after these came 'Ubaydullah ibn 'Umar ibn Ḥafṣ ibn 'Āṣim ibn 'Umar ibn al-Khaṭṭāb, Muḥammad ibn 'Abd al-Raḥmān ibn Abī Dhubāb al-Qurashī al-'Āmirī, Muḥammad ibn Isḥāq, Mālik ibn Anas, 'Abd al-'Azīz ibn Abī Salamah al-Mājishūn, Muḥammad ibn 'Abd al-'Azīz ibn 'Umar ibn 'Abd al-Raḥmān ibn 'Awf (who became the judge of Madīnah, and his fatwās were acted upon by Jaʿfar ibn Sulaymān ibn 'Alī ibn 'Abdullāh ibn al-'Abbās), and Mālik ibn Anas. After them came the students of Mālik, such as 'Abd al-'Azīz ibn Abī Ḥāzim, al-Mughīrah ibn 'Abd al-Raḥmān ibn al-Ḥārith ibn 'Abdullāh ibn 'Ayyāsh ibn Abī Rabī 'ah ibn al-Mughīrah al-Makhzūmī, and Muḥammad ibn Maslamah ibn Muḥammad ibn Hishām ibn Ismāʾīl ibn al-Walīd ibn al-Mughīrah, who had a very large collection of narrations from Mālik, and 'Abdullāh ibn Nāfī 'al-Aʿwar, the goldsmith, and 'Abd al-Mālik ibn 'Abd al-'Azīz ibn Abī Salamah al-Mājishūn, Muṭarrif ibn 'Abdullāh ibn Muṭarrif ibn Sulaymān ibn Yasār, and Abū Muṣʿab Aḥmad ibn Bakr.

Al-Ḥārith ibn Abī Zurārah ibn al-Musayyib ibn ʿAbd al-Raḥmān ibn ʿAwf al-Zuhrī, who was the last of the famous *fuqahā* ʿ in Madīnah, passed away in the year 242 AH during the time of al-Mutawakkil, and the knowledge in Madīnah declined after that. To Allāh we belong, and to Him we shall return. Allāh is the best protector and the best helper.

The *fuqahā* ' of Baṣrah after the Companions some include 'Amr ibn Salamah al-Jarmī, who met the Prophet some, and his father had companionship; Abū Maryam al-Ḥanafī; Kaʿb ibn Sūr; Amr ibn Yathribī; al-Ḥasan ibn Abī al-Ḥasan, who met five hundred of the Companions; and some *fuqahā* 'have compiled their *fatwās* into seven large volumes: Jābir ibn Zayd Abū al-Shaʿthāʾ, who took from Ibn 'Abbās; Muḥammad ibn Sīrīn; Yaḥyā ibn Yaʿmar Abū Qilābah; 'Abd Allāh ibn Zayd al-Jarmī; Muslim ibn Yasar Abū al-ʿĀliyah al-Riyāḥī, *mawlā* of Bakr ibn 'Abd Allāh al-Muzanī; Ḥumayd ibn 'Abd al-Raḥmān; Muṭarraf ibn 'Abd Allāh ibn al-Shikhkhīr al-Ḥarashī; Zurārah ibn 'Awfā Abū Burdah ibn Abī Mūsā al-Ash'arī; Maʿbad ibn 'Abd Allāh al-Ḥakīm al-Juhanī; 'Abd al-Mālik ibn Yaʿlā al-Laythī al-Qāḍī; Bilāl ibn Abī Burdah ibn Abī Mūsā al-Ash'arī; and these met the senior Companions some the came after them: Ayyūb ibn Kaysān al-Sakhtiyānī; Sulaymān ibn Ṭarḥān al-Taymī, *mawlā* of Yūnus ibn 'Ubaid; 'Abd Allāh ibn 'Awn; Khālid ibn Abī 'Imrān; al-Qāsim ibn Rabīʿah; Ash'ath ibn 'Abd al-

Mālik al-Hamrānī; Hafs ibn Sulaymān al-Muqri'; Qatādah ibn Du'āmah al-Sadūsī; Iyās ibn Mu'āwiyah al-Qādī; and after them: Suwār ibn 'Abd al-Mālik al-Qādī; al-ʿAnbarī; Abū Bakr al-ʿAtakī; ʿUthmān ibn Muslim al-Battī; Țalhah ibn Īyās al-Qāḍī; 'Ubaidullāh ibn al-Ḥasan al-'Anbarī al-Qāḍī; Ash'ath ibn Jābir; 'Amr ibn 'Ubaid. Then after these came: 'Abd al-Wahhāb ibn 'Abd al-Majīd al-Thaqafī; Sa'īd ibn Abī 'Arūbah; Hammād ibn Salamah; Ḥammād ibn Zayd; 'Abd Allāh ibn Dāwūd al-Khuraybī; Ismā'īl ibn 'Alīyah; Bishr ibn al-Mufaddal ibn Lāḥiq; Muʿādh ibn Muʿādh al-ʿAnbarī; Abū 'Āsim; al-Husāq ibn Mukhallad; Ma'mar ibn Rāshid; Quraysh ibn Anas; 'Ubaidullāh ibn Mu'ādh; Muḥammad ibn 'Abd Allāh al-Anṣārī; Kulthūm ibn Kulthūm. Then their opinion included that of Abū Hanīfah with Yūsuf ibn Khālid and others, and Mālik's view with Ahmad ibn al-Ma'dhil, except for a few whose matters have not reached us, and among those we have heard of, like Sulaymān ibn Harb al-Washajī, who followed the early Sunnah in his fatwās, and Ibrāhīm ibn 'Alīyah; Yaḥyā ibn Aktham al-Qāḍī; 'Abd al-Salām ibn 'Umar; Yahyā ibn Sa'īd al-Qattān; 'Abd al-Rahmān ibn Mahdī; Khālid ibn al-Hārith al-Hujaymī; 'Abd al-Wārith ibn Sa'īd al-Tanūrī; Shub'ah ibn al-Ḥajjāj; and their like from the leaders of the hadīth scholars, who are beyond any doubt extensive in their knowledge of the Sunnah and the reports from the Companions. They did not make $tagl\bar{t}d$ of anyone's $ra'\bar{t}$ in their religion. They are counted among those we have mentioned, but their fatwās are very few, and they used to rely on the fatwas of the Companions and the Successors they narrated. Very few of what we mentioned have only a mas 'alah or two preserved about them, and many of them were more cautious in issuing fatwās.

The fuqahā of Kūfah after the Companions include: Alqamah ibn Qays al-Nakha i; al-Aswad ibn Yazīd al-Nakh i, who is the uncle of Aqlamah and the brother of his father; Abū Maysarah; Amr ibn Shuraḥbīl al-Hamdānī; Masrūq ibn al-Ajda al-Hamdānī; Ubaidah al-Salmānī; Sharīḥ ibn al-Ḥārith al-Kindī al-Qāḍī; Sulaymān ibn Rabī al-Bāhilī; Zayd ibn Suḥān; Suwayd ibn Ghaflah; al-Ḥārith ibn Qays al-Ju fī; Abd al-Raḥmān ibn Yazīd ibn Qays al-Nakh i, the brother of al-Aswad ibn Yazīd; Abd Allāh ibn Atāh ibn Mas ūd al-Qāḍī; Khaytham ibn Abd al-Raḥmān Abū Ḥudhīfah; Salamah ibn Ṣuhayb Abū Aṭiyyah; Mālik ibn Āmir Abū al-ʿAḥwāṣ; Abd Allāh ibn Sakhbarah; Zirr ibn Ḥubaysh al-Asadī; Khallās ibn ʿAmr, who is from the Companions of ʿAlī ; Amr ibn Maymūn al-Awdī, from the

Companions of Muʿādh ibn Jabal; Humām ibn al-Ḥārith; Nabātah al-Juʿfī; al-Ḥārith ibn Suwayd; Zayd ibn Muʿāwiyah al-Nakhaʿī; Muʿaḍḍad al-Shaybānī; al-Rabīʿ ibn Khaytham al-Thawrī; ʿUtbah ibn Farqad al-Sulamī; his son ʿAmr; Ṣilah ibn Zufar al-ʿAbasī; Sharīk ibn Ḥanbal Abū Wāʾil; Shaqīq ibn Salamah al-Asadī; ʿUbayd ibn Naḍlah.

These are the Companions of Ibn Masʿūd and ʿAlī, and the senior Successors who used to issue *fiqh* and were consulted. The major Companions were present and allowed them to do so, and most of them had taken from 'Umar ibn al-Khaṭṭāb and 'Ā'isha, the Mother of the Believers, and 'Alī and others. 'Umar ibn Maymūn met Muʿādh ibn Jabal and his companions and took from him and did likewise. Muʿādh advised him at his death to join Ibn Masʿūd and accompany him and seek knowledge from him. Added to these are Abū 'Ubaidah and 'Abd al-Raḥmān, the sons of 'Abd Allāh ibn Masʿūd, and 'Abd al-Raḥmān ibn Abī Laylā al-Anṣārī, who took from a hundred and twenty of the Companions, and Maysara and Zādhān and al-Ḍaḥḥāk al-Miṣrī.

Then after them were Ibrāhīm al-Nakhaʿī and ʿĀmir al-Shaʿbī and Saʿīd ibn Jubayr, the *mawlā* of Banī Asad, the companion of Ibn ʿAbbās, and al-Qāsim ibn ʿAbd al-Raḥmān ibn ʿAbd Allāh ibn Masʿūd al-Hudhalī and Abū Bakr ibn Abī Mūsā al-Ashʿarī. His other brothers were in Baṣra, and Muḥārib ibn Dhawār al-Sudūsī and al-Ḥakam ibn ʿUtayba and Jabalah ibn Suḥaym al-Shaybānī and the companion of Ibn ʿUmar.

Then after these were Ḥammād ibn Abī Sulaymān and Manṣūr ibn al-Muʿtamir al-Sulamī and al-Mughīra ibn Muqsim al-Dabbī and Sulaymān al-Aʿmash, the *mawlā* of Banī Asad, and Miṣʿar ibn Kuddām al-Hilālī. Then after these were Muḥammad ibn ʿAbd al-Raḥmān ibn Abī Laylā, the judge, and ʿAbd Allāh ibn Shubrumah, the judge al-Dabbī, and Saʿīd ibn Ashwaʿ, the judge, and Sharīk, the judge al-Nakhaʿī, and al-Qāsim ibn Maʿn and Sufyān ibn Saʿīd al-Thawrī and Abū Ḥanīfa al-Nuʿmān ibn Thābit and al-Hasan ibn Sāliḥ ibn Ḥayy.

And then after them Ḥafṣ ibn Ghayyāth, the judge, and Waqīʿ ibn al-Jarrāḥ and the followers of Abū Ḥanīfa like Abū Yūsuf, the judge, and Zufar ibn al-Hudhayl al-Baṣrī, who resided in al-Kūfa, and Ḥammād ibn Abī Ḥanīfa and al-Ḥasan ibn Ziyād al-Luʾluʾī, the judge, and Muḥammad ibn al-Ḥasan, the judge of al-Ruqqa, and ʿĀfiya, the judge, and Asad ibn ʿAmr and Nūḥ ibn Darrāj, the judge, and the followers of Sufyān al-Thawrī like al-Ashjaʿī and

al-Mu'āfa ibn 'Imrān and the companions of al-Hasan ibn Hayy, Humayd al-Ru'āsī and Yaḥyā ibn Ādam and a group of hadīth scholars who were not well-known for *fatwā*.

Then they were dominated by the taglīd of Abū Ḥanīfa. We mentioned those from the followers of Abū Ḥanīfa and not others because they did not consume themselves in *taqlīd* but chose to differ from it in much of jurisprudence. So they entered the ranks of the *fugahā* '. Similarly, those we mentioned among the fugahā of Madīna from the companions of Mālik and those we mention among the $fugah\bar{a}$ of the people of Egypt. As for those who consumed themselves in taglīd and did not differ from their teacher in anything, they are not worthy to be mentioned among the scholars of jurisprudence nor do they deserve their names to be included among the scholars because they are not among them. They are like the donkey that carries books. And to Allāh belongs the success, and He is the best Disposer of Affairs.

The fugahā' of the people of al-Shām after the Companions include Abū Idrīs al-Khawlānī, who met Mu'ādh and took from him, Shuraḥbīl ibn al-Ṣamt, 'Abd Allāh ibn Abī Zakariyyā al-Khuza'ī, Qubayṣa ibn Dhu'ayb al-Khuza'ī, who sought knowledge in al-Madīna, and Junāda ibn Abī Umayya and Sulaymān ibn Habīb al-Muhāribī and al-Hārith ibn 'Amīra al-Zubaidī and Khālid ibn Ma'dān and 'Abd al-Raḥmān ibn Ghanm al-Ash arī and Jubayr ibn Nufayr. Then after them were Abd al-Raḥmān ibn Jubayr ibn Nufayr and Makhūl and 'Umar ibn 'Abd al-'Azīz and Rajā' ibn Haywā. 'Abd al-Mālik ibn Marwān was considered among the *fugahā* 'before he assumed what he assumed, and Hudayr ibn Kurayb. Then after these were Yaḥyā ibn Ḥamza, the judge, and Abū 'Amr 'Abd al-Raḥmān ibn 'Amr al-Awzā 'ī and Ismā 'īl ibn Abī al-Muhājir and Sulaymān, the mawla of Ibn Mūsā al-Umawī, and Sa'īd ibn 'Abd al-'Azīz, then Makhlad ibn al-Ḥusayn and al-Walīd ibn Muslim and al-'Abbās ibn Yazīd, the companion of al-Awzā'ī and Shu'ayb ibn Ishāq, the companion of Abū Ḥanīfa, and Abū Ishāq al-Fazārī, the companion of Ibn al-Mubārak. Then there was no well-known faqīh in al-Shām after these.

The fughā' of Egypt after the Companions included Yazīd ibn Abī Ḥabīb and Bakīr ibn 'Abd Allāh ibn al-Ashja', and after them 'Amr ibn al-Hārith. Ibn Wahb said that if 'Amr ibn al-Hārith had lived, there would have been no need for Mālik or anyone else. He was an Ansārī. Then came al-



Layth ibn Sa'd and 'Ubaid Allāh ibn Abī Ja'far. Following them were Mālik's followers like 'Abd Allāh ibn Wahb, 'Uthmān ibn Kināna, Ashhab, and Ibn al-Qāsim, who mostly followed Mālik except in minor matters.

Next were the followers of al-Shāfiʿī, such as Abū Ibrāhīm Ismāʿīl ibn Yaḥyā al-Muzanī, Abū Yaʿqūb Yūsuf ibn Yaḥyā al-Buwaīṭī, and Muḥammad ibn ʿAbd Allāh ibn ʿAbd al-Ḥakam. Over time, they followed Mālik and al-Shāfiʿī, but some had their own views, like Muḥammad ibn ʿAlī Ibn Yūsuf, Abū Jaʿfar Aḥmad ibn Muḥammad al-Ṣaḥāwī, and others.

In Qayrawān, there was Saḥnūn ibn Saʿīd with many opinions, and Saʿīd ibn Muḥammad ibn al-Ḥaddād. In al-Andalus, notable figures included Yaḥyā ibn Yaḥyā, ʿAbd al-Mālik ibn Ḥabīb, and Bāqī ibn Mukhallad, along with Qāsim ibn Muḥammad who preserved some fatwās. Likewise Aslam Ibn ʿAbd Al-ʾAzīz Al-Qaḍī Mundir Ibn Saʿīd.

And among those we have encountered from the people of knowledge, possessing the qualities that, when attained, make one worthy of being considered in matters of disagreement are Mas'ūd Ibn Sulaymān Ibn Muflit, Yūsuf Ibn 'Abdullāh Ibn Muḥammad Ibn 'Abd Al-Barr Al-Nimrī.

In Yemen, there were Muṭarrif ibn Māzin the judge of Ṣanʾāʿ, ʿAbd al-Razzāq ibn Hammām, Hishām ibn Yūsuf, Muḥammad ibn Thawr, and Samāk ibn al-Fadl.

And the *a'immah* from the *mutaqaddimīn* among the people of firmness upon the Sunan, though they were not among the residents of major cities, some of them were from Khurāsān and some settled in Baghdād. Among them was Abū Muḥammad 'Abdullāh ibn al-Mubārak al-Khurāsānī, Nu'aym ibn Ḥammād, Abū Thawr Ibrāhīm ibn Khālid al-Kalbī, a companion of al-Shāfi'ī, from Baghdād; Aḥmad ibn Muḥammad ibn Ḥanbal the Marwazī, who settled in Baghdād; Isḥāq ibn Rahūyah, from Naysābūr, who settled in Baghdād; Abū 'Ubayd al-Qāsim ibn Sallām al-Lughawī, from Kūfah, who settled in Baghdād; Sulaymān ibn Dāwūd ibn 'Alī ibn 'Abdullāh ibn al-'Abbās ibn 'Abd al-Muṭṭalib ibn Hāshim ibn 'Abd Manāf; Ḥusayn ibn 'Alī al-Karābīsī, from Baghdād. Abū Khaythama Zuhayr ibn Ḥarb was considered to be among them but did not have their breadth of knowledge. Abū Ḥātim Muḥammad ibn Idrīs al-Ḥanzalī, from Ṣalībah; Abū Zur'ah 'Ubaydullāh ibn 'Abd al-Karīm al-Rāziyyān. Hushaym ibn Bashīr had his own views.

After them were Dāwūd ibn ʿAlī, Muḥammad ibn Naṣr al-Marwazī, Muḥammad ibn Ismāʿīl al-Bukhārī, then Muḥammad ibn Jarīr al-Ṭabarī, Muḥammad ibn Ibrāhīm ibn al-Mundhir al-Naysābūrī, and the followers of Dāwūd, such as Muḥammad his son, ʿAbdullāh ibn Aḥmad ibn al-Mughallis, ʿAbdullāh ibn Muḥammad Ruwaym, ʿAbdullāh ibn Muḥammad al-Raḍīʿ, Abū Bakr ibn al-Najjār, Abū Bakr Aḥmad ibn Muḥammad al-Awānī, al-Khallāl, Abū al-Ṭayyib Muḥammad ibn Aḥmad al-Dayājī, all from Baghdād.

And among the likes of them — though they were from the people of qiyās, were Abū 'Ubayd 'Alī ibn Ḥarb, the judge of Egypt, and Abū Isḥāq Ibrāhīm ibn Jaʿfar ibn Jābir, the judge of Aleppo, and they both leaned towards al-Shāfiʿī. Among these also were Muḥammad ibn Shujāʿ al-Balkhī, Aḥmad ibn Abī ʿImrān, and Bakkār ibn Qutaybah, from Baṣrah, who became the judge of Egypt and died there. These also had their own views, though they generally did not depart from Abū Ḥanīfah and his companions, Zufar, Abū Yūsuf, and Muḥammad ibn al-Ḥasan.

This matter is of great benefit in declaring false the claim of $ijm\bar{a}$ in the matters of fiqh where the opinions of people do not become widespread except through transmission (conveying what they have said). Those we have mentioned are the ones whose opinions are considered by our opponents in matters of disagreement and in claims of $ijm\bar{a}$, after the $ijm\bar{a}$ of the Companions. And these are the ones from whom statements on jurisprudential issues have been narrated.

And many of these scholars are only known for two or three issues, and perhaps we missed mentioning some, but surely the number is small. We are human, and perfection belongs to the Prophet *s and to those whom the Prophet described as perfect. With Allāh's assistance.

And since none from the *tābi ʿīn* are known except those we named, anyone familiar with the narrations can confirm that their numbers were vast, spreading across the earth—from the furthest parts of Sind and Khurāsān to Armenia and Azerbaijan, to Mosul, the lands of Rabīʿah and Muḍar, to Syria, Egypt, and Africa, to the furthest parts of al-Andalus and the Berber lands, to Ḥijāz, Yemen, and the Arabian Peninsula, to Iraq, Ahwaz, Persia, Kerman, Sijistan, Kabul, Sind, Isfahan, Tabaristan, Gurgan, and the mountains. Indeed, Islām dominated all these lands, and all praise belongs to Allāh.

There was not a single one of the lands we mentioned, nor a significant village, except that it had a $muft\bar{\iota}$ and a reciter, and perhaps more



than one. So how could it be acceptable for anyone who possesses even a shred of faith, fears Allāh in lying, and avoids disgrace, fame, and exposure, to claim $ijm\bar{a}$ on a matter without being absolutely certain that every single $muft\bar{t}$ in all these lands agreed with that claim?

Moreover, those we named are merely a small portion of those whose names have not reached us. Most of them are known only for very few issues, and they themselves are a small number. So where are their $fat\bar{a}w\bar{a}$ on all the other matters not reported from them? What about those whose names were not mentioned at all? It is clear, without doubt, that no one can count all the opinions of the $t\bar{a}bi$ \bar{n} , and then the opinions of the generation after them, on every issue, except All $\bar{a}h$, their Creator, who is fully aware of all of His creation. By All $\bar{a}h$, even the angels cannot account for them, as each angel records only the words of the one he is assigned to guard and monitor, not the words of others. So how could someone attempt to account for all of this when no one has been given knowledge except a little?

It is as clear as the sun on a bright day that anyone who claims *ijmā* on something other than what has been confirmed with certainty—that anyone who denies it would not remain a Muslim—is a liar, a fabricator, and a slanderer. We seek refuge in Allāh from lying about even a single disbeliever, let alone many people, and even more so about a believer, and even worse about all the scholars of Islām, from the earliest to the most recent, past and present. Such a claim is so severe that it causes the skin to shudder, and we seek refuge in Allāh, the Almighty, from disgrace.

It is also impossible to find a single issue where the opinion of even all those we named, despite their small number, is mentioned, let alone those whose names were not recorded. Instead, in any given matter, there are reports from about ten individuals or fewer, and even they differ. Anyone who has studied the reports in the books and scattered narrations will undoubtedly realize the truth of this. All of this demonstrates the falseness of anyone who claims consensus on matters beyond what we have outlined. And success is with Allāh.